Zoning Ordinance of the City of Cannon Beach

CODIFIED
With Amendments through January 2011
(Through Ordinance 10-12)

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ZONING ORDINANCE OF CANNON BEACH, OREGON

As amended through January 2011
(Covering through Ordinance 10-12)

THE ZONING ORDINANCE IS TITLE 17 OF THE CANNON BEACH MUNICIPLE CODE AND FOLLOWS THE MUNICIPAL CODE NUMBERING SYSTEM

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* Prior Ordinance History: Ord. 79-4A as amended by Ords. 780-1, 80-6, 81-1, 81-3, 81-16, 81-18, 81-20, 82-3, 82-5, 82-7, 82-10, 82-11, 82-12, 82-13, 82-15, 82-17, 83-12, 83-13, 83-20, 84-3, and 84-7.

Chapter 17.02

GENERAL PROVISIONS

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17.02.010 Title.

The ordinance codified in this title is known and may be cited as the "Zoning Ordinance of Cannon Beach, Oregon." (Ord. 79-4 § 1 (1.010))

17.02.020 Purpose.

The purpose of this title is to encourage appropriate and orderly physical development in the city through standards for provision of adequate open space for light and air, desired levels of population density, workable relationships of land uses to the transportation system, adequate community facilities, assurance of opportunities for effective utilization of land, and to promote in other ways public health, safety, convenience and general welfare. (Ord. 79-4 § 1 (1.020))

17.02.030 Interpretation.

Where the conditions imposed by any provisions of this title are less restrictive than comparable conditions imposed by any other provisions of this title, resolution or comprehensive plan, the provisions which are more restrictive shall govern. (Ord. 79-4 § 1 (12.010))

17.02.040 Severability.

The provisions of this title are severable. If any section, sentence, clause or phrase of this title is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this title. (Ord. 79-4 § 1 (12.020))

Chapter 17.04

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17.04.005 Access.

"Access" means the way or means by which pedestrians and vehicles enter and leave the property. (Ord. 86-16 § 1(1): Ord. 86-10 § 1(1))

17.04.008 Accessory dwelling.

"Accessory dwelling" means an attached or detached dwelling unit which is located on the same lot on which a single-family dwelling, modular dwelling or manufactured dwelling is located (the primary residence) and which is rented only for periods of thirty calendar days or more. (Ord. 95-8 § 3)

17.04.010 Accessory structure, use.

"Accessory structure" or "accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use. (Ord. 86-16 § 1(2): Ord. 86-10 § 1(2))

17.04.015 Adult day care center.

"Adult day care center" means a facility where care is provided to adults for part of the twenty-four hours of the day in the home of the person providing the care. (Ord. 89-3 § 1 (part))

17.04.025 Alley.

"Alley" means a public or private way, no more than twenty feet in width, which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street. (Ord. 08-1 § 1: Ord. 86-16 § 1(3): Ord. 86-10 § 1(3))

17.04.030 Alteration.

"Alteration" means a change in construction or a change of occupancy. Where the term "alteration" is applied to a change of construction, it is intended to apply to any change, addition, or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another or from one division of trade or use to another. (Ord. 86-16 § 1(4): Ord. 86-10 § 1(4))

17.04.035 Alteration, structural.

"Structural alteration" means a change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration of bearing walls, foundation, columns, beams or girders. In addition, any change to the external dimensions of the building shall be considered a structural extension. (Ord. 86-16 § 1 (5): Ord. 86-10 § 1(5))

17.04.040 Alteration, temporary.

"Temporary alteration" means dredging, filling, or another estuarine alteration occurring over a specified short period of time which is needed to facilitate a use allowed by an acknowledged plan. Temporary alterations may not be for more than three years and the affected area must be restored to its previous condition. Temporary alterations include:

1. Alterations to establish mitigation sites, estuarine enhancement, and alteration for bridge construction or repair, and

2. Minor structures (such as blinds) necessary for research and educational observation. (Ord. 86-16 § 1(6): Ord. 86-10 § 1(6))

17.04.045 Amusement arcade.

"Amusement arcade" means any business location at which more than four amusement devices are located. (Ord. 88-12 § 1 (part))

17.04.050 Amusement device.

"Amusement device" means any mechanical, electronic, mechanical-electronic or non-mechanical mechanism which is designed for the amusement of players or operators and is complete in itself having as its purpose the production or creation of a game of skill, amusement, entertainment or test of strength, including, but not limited to video games of any types, shuffleboard, coin-operated devices utilizing tables, boards or cases of any size whatever, balls, sticks, cues, pegs or marbles, and whether or not any motivating force involved is furnished by the player or device. (Ord. 88-12 § 1 (part))

17.04.055 Aquaculture.

"Aquaculture" means the raising, feeding, planting and harvesting of fish and shellfish, and associated facilities necessary for that use. (Ord. 86-16 § 1 (7): Ord. 86-10 § 1 (7))

17.04.056 Assisted living facility.

"Assisted living facility" means a building designed for occupancy by elderly or disabled persons living independently of each other and where the facility provides certain defined services on a twenty-four hour basis. These services can include: meals, housekeeping, scheduled activities, transportation, personal care, and nursing care. A bedroom is the equivalent of a unit for the purpose of calculating the number of assisted living units. (Ord. 08-1 § 14)

17.04.057 Basement.

"Basement" means that portion of a building which is partially or completely below grade, but not including a crawl space. (Ord. 03-7 § 4)

17.04.060 Beach.

"Beach" means gently sloping areas of loose material (e.g., sand, gravel, cobbles) that extend landward from the low water line (extreme low tide) to a point where there is a definite change in the material type or landform or to the line of year-round established vegetation. In most cases, the line of vegetation is followed by the Oregon Beach Coordinate or zone line, as defined by ORS 390.770. Where the vegetation line is eastward or landward of the coordinate line, the eastward line of the beach shall be the actual line of vegetation. (Ord. 86-16 § 1 (8): Ord. 86-10 § 1 (8))

17.04.065 Bed and breakfast.

"Bed and breakfast" is an owner occupied dwelling where no more than two rooms are available for transient lodging. (Ord. 92-11 § 1: Ord. 86-16 § 1 (9): Ord. 86-10 § 1 (9))

17.04.070 Boarding, lodging or rooming house.

"Boarding, lodging or rooming house" means a building where lodging with or without meals is provided for compensation for not less than three nor more than fifteen persons in addition to members of the family occupying such building. (Ord. 86-16 § 1 (10): Ord. 86-10 § 1 (10))

17.04.075 Bridge crossing.

"Bridge crossing" means the portion of a bridge spanning a waterway or wetlands, not including supporting structures or fill. (Ord. 86-16 § 1 (11): Ord. 86-10 § 1 (11))

17.04.080 Bridge crossing support structures.

"Bridge crossing support structures" means piers, pilings and similar structures necessary to support a bridge span but not including fill for causeways or approaches. (Ord. 86-16 § 1 (12): Ord. 86-10 § 1 (12))

17.04.085 Building.

"Building" means a structure built for the support, shelter or enclosure of persons, animals or property of any kind. (Ord. 86-16 § 1 (13): Ord. 86-10 § 1 (13))

17.04.087 Building coverage.

"Building coverage" means the portion of the lot area that is covered by buildings. The area of the buildings shall be measured at their exterior perimeter. Buildings include dwellings, accessory structures, garages and carports. (Ord. 92-11 § 5)

17.04.090 Building height.

"Building height" means the vertical distance measured from the average elevation of existing grade to the highest point of the roof surface of a flat roof, to the top of a mansard roof, or to the mean height level between the eaves and the ridge for a pitched roof. Average elevation of existing grade shall be measured at the vertical projection of the enclosed building space. (Ord. 86-16 § 1 (14): Ord. 86-10 § 1 (14))

17.04.095 Building line.

"Building line" means a horizontal line that coincides with the front side of the main building. (Ord. 86-16 § 1 (15): Ord. 86-10 § 1 (15))

17.04.100 Bulk.

"Bulk" means cubic volume of building. (Ord. 86-16 § 1 (16): Ord. 86-10 § 1 (16))

17.04.105 Bulkhead.

"Bulkhead" means a vertical wall of steel, timber or concrete piling. (Ord. 86-16 § 1 (17): Ord. 86-10 § 1 (17))

17.04.110 Business.

"Business" means any commercial or noncommercial activity, service or institution or governmental unit. (Ord. 86-16 § 1 (18): Ord. 86-10 § 1 (18))

17.04.112 Campground.

"Campground" means an area of land developed without hook-up facilities for rec-

reational use in temporary occupancy by tents or recreational vehicles. (Ord. 06-08 § 1)

17.04.115 City.

"City" means the city of Cannon Beach, Oregon. (Ord. 86-16 § 1 (19): Ord. 86-10 § 1 (19))

17.04.116 Community garden.

"Community garden" means a tract of land gardened by a group of individuals for the purpose of cultivating plants, such as vegetables, flowers and herbs, for their personal use or donation. (Ord. 09-4 § 1)

17.04.118 Compensatory mitigation.

"Compensatory mitigation" means the creation, restoration or enhancement of a wetland area to maintain the functional characteristics and processes of the wetland system, such as its natural biological productivity, habitats, aesthetic qualities, species diversity, open space, unique features and water quality. (Ord. 94-29 § 1 (part))

17.04.120 Condominium.

"Condominium" means a multiple family dwelling, duplex or single unit, in which the dwelling units are individually owned, with each owner having a recordable deed enabling the unit to be sold, mortgaged or exchanged independently, under the provisions of Oregon Revised Statutes. (Ord. 86-16 § 1 (20): Ord. 86-10 § 1 (20))

17.04.125 Cottage industry.

"Cottage industry" means a small business activity which may involve the provision of services or manufacture and sale of products, is carried on by a member of the family living on the premises with no more than one other person employed by the family member, and is not detrimental to the overall character of the neighborhood. (Ord. 86-16 § 1 (21): Ord. 86-10 § 1 (21))

17.04.130 Day care center.

"Day care center" means a facility other than the residence of the day care provider, which receives three or more children for a part of the twenty-four hours of the day for the purpose of providing care and board apart from the children's parents or guardians. (Ord. 89-3 § 1 (part))

17.04.132 Deflation plain.

"Deflation plain" means an interdune area which is windscoured to the height of the summer water table. (Ord. 94-08 § 3 (part))

17.04.135 Density, net.

"Net density" means the number of dwelling units per unit of land expressed as the number of square feet of land per dwelling unit. The net density for any lot is computed by dividing the net square footage of the parcel by the number of dwelling units. The net square footage is determined by subtracting from the total square footage of the parcel that which is deemed necessary for street dedication and that area used for private streets and common driveways, if any. (Ord. 86-16 § 1(22): Ord. 86-10 § 1 (22))

17.04.140 Dike.

"Dike" is a structure designed and built to prevent inundation of a parcel of land by water. (Ord. 86-16 § 1(23): Ord. 86-10 § 1 (23))

17.04.145 Dock.

"Dock" means a pier or secured float or floats for boat tie-up or other water use, often associated with a specific land use on the adjacent shoreland. (Ord. 86-16 § 1 (24): Ord. 86-10 § 1(24))

17.04.150 Dredging.

"Dredging" means the removal of sediment or other material from a stream, river, estuary or other aquatic area for the purpose of deepening a navigational channel or other purposes. (Ord. 86-16 § 1(25): Ord. 86-10 § 1(25))

17.04.155 Dune.

"Dune" means a hill or ridge of sand built up by wind along sandy coasts. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1 (26)(part))

17.04.160 Dune, active.

"Active dune" means a dune that migrates, grows and diminishes from the force of wind and supply of sand. Active dunes include all open sand dunes, active hummocks and active foredunes. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1(26)(part))

17.04.165 Dune, conditionally stable.

"Conditionally stable dune" means a dune presently in a stable condition, but vulnerable to becoming active due to fragile vegetative cover. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1(26)(part))

17.04.167 Dune grading, remedial.

"Remedial dune grading" means grading that is undertaken on an active dune in order to protect existing improvements from the effects of wind-borne sand. The grading is intended to remedy the effect of sand inundation that has already occurred. (Ord. 94-08 § 3 (part))

17.04.170 Dune, older stabilized.

"Older stabilized dune" means a dune that is stable from wind erosion and that has significant soil development and that may include diverse forest cover. May include older foredunes. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1(26)(part))

17.04.175 Dune, open sand.

"Open sand dune" means a collective term for active, unvegetated dune land forms. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1(26)(part))

17.04.180 Dune, recently stabilized.

"Recently stabilized dune" means a dune with sufficient vegetation to be stabilized from wind erosion, but with little, if any, development of soil or cohesion of sand under the vegetation. Recently stabilized dunes include conditionally stable foredunes, conditionally stable dunes, dune complexes and younger stabilized dunes. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1 (26)(part))

17.04.185 Dune, younger stabilized.

"Younger stabilized dune" means a wind stable dune with weakly developed soils and vegetation. (Ord. 86-16 § 1(26)(part): Ord. 86-10 § 1(26)(part))

17.04.190 Dwelling, apartment or multiple-family.

"Apartment or multiple-family dwelling" means a building or portion thereof, designed for occupancy by three or more fami-

lies living independently of each other. (Ord. 86-16 § 1(31): Ord. 86-10 § 1(31))

17.04.195 Dwelling, duplex or two-family.

"Duplex or two-family dwelling" means a building, or buildings, containing two dwell-

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ing units with or without a common wall or ceiling and where there are no direct interior connecting doorways. (Ord. 03-7 § 1: Ord. 95-8 § 2: Ord. 92-11 § 2: Ord. 90-10 § 1 (Appx. A § 1(3)): Ord. 86-16 § 1(30): Ord. 86-10 § 1(30))

17.04.198 Dwelling, owner-occupied.

"Owner-occupied dwelling" means a dwelling that is the residence of the person that is the owner of the lot on which the dwelling is located, as indicated by the records of the county assessor. Residence is defined to mean the place where a person resides a majority of the time during a year. (Ord. 92-11 § 6)

17.04.200 Dwelling, single-family attached.

"Single-family attached dwelling" means an individually owned single-family attached dwelling, such as a townhouse. (Ord. 86-16 § 1(28): Ord. 86-10 § 1(28))

17.04.205 Dwelling, single-family or one-family.

"Single-family or one-family dwelling" means a detached building, other than a manufactured home or modular home, containing one dwelling unit and not including timeshare ownership of that dwelling unit. (Ord. 90-10 § 1 (Appx. A § 1(2)): Ord. 86-16 § 1(29): Ord. 86-10 § 1(29))

17.04.210 Dwelling unit.

"Dwelling unit" means a room or group of rooms including living, cooking and sanitation facilities designed for occupancy by one or more persons living as a household unit with a common interior access to all living, kitchen and bathroom areas. No dwelling unit shall have more than one kitchen. (Ord. 03-7 § 2: Ord. 86-16 § 1(27): Ord. 86-10 § 1 (27))

17.04.215 Enclosed recreation uses.

"Enclosed recreation uses" means active sports uses covered by a structure in order to provide year-round activity, including swimming pools, tennis and handball courts and racquetball courts, and no others. (Ord. 86-16 § 1(32): Ord. 86-10 § 1(32))

17.04.220 Estuarine enhancement.

"Estuarine enhancement" means an action which results in a long-term improvement of existing estuarine functional characteristics and processes that is not the result of a restoration action or the creation of additional estuarine habitat. (Ord. 86-16 § 1 (33): Ord. 86-10 § 1 (33))

17.04.225 Estuarine fill.

"Estuarine fill" means the placement by man of sediments or other material in an aquatic area to create new shorelands or on shorelands to raise the elevation of the land. (Ord. 86-16 § 1 (34): Ord. 86-10 § 1 (34))

17.04.227 Excavation.

"Excavation" means the removal of earth material. (Ord. 94-29 § 1 (part))

17.04.230 Family.

"Family" means an individual or two or more persons living together as one housekeeping unit and using one kitchen. (Ord. 92-11 § 3: Ord. 86-16 § 1(35): Ord. 86-10 § 1 (35))

17.04.235 Family day care center.

"Family day care center" means a day care facility where care is provided in the home of the provider to fewer than thirteen children including children of the provider, regardless of full- or part-time status. (Ord. 89-3 § 1 (part))

17.04.240 Fence.

"Fence" means a protective or confining barrier constructed of wood, masonry or wire mesh. Fence does not include hedges or other plantings. (Ord. 86-16 § 1 (36): Ord. 86-10 § 1 (36))

17.04.245 Floor area ratio.

"Floor area ratio" means the gross floor area divided by the lot area and is usually expressed as a decimal fraction. (Ord. 90-11 A § 1 (Appx. A § 1 (2)): Ord. 79-4 § 1.030 (part))

17.04.250 Foredune, active.

"Active foredune" means an unstable barrier ridge of sand paralleling the beach and subject to wind erosion, water erosion and growth from new sand deposits. Active foredunes may include areas with beach grass and occur in sandspits and at rivermouths as well as elsewhere. (Ord. 86-16 § 1(38): Ord. 86-10 § 1 (38))

17.04.252 Foredune breaching.

"Foredune breaching" means the alteration of the crest of an active foredune or a conditionally stable foredune where the alteration is not undertaken as part of a foredune grading plan, or as maintenance foredune grading. (Ord. 07-03 § 2: Ord. 94-08 § 3 (part))

17.04.255 Foredune, conditionally stable.

"Conditionally stable foredune" means an active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion. (Ord. 86-16 § 1 (39): Ord. 86-10 § 1 (39))

17.04.257 Foredune grading.

"Foredune grading" means the alteration of active dunes in a manner that changes their shape or height. Foredune grading is intended to be preventive and is undertaken primarily for view enhancement. (Ord. 94-08 § 3 (part))

17.04.258 Foredune grading, maintenance.

Foredune grading, maintenance. "Maintenance foredune grading" means the limited alteration of active dunes that have previously been altered pursuant to an approved foredune grading plan. (Ord. 07-3 § 1)

17.04.260 Foredune, older.

"Older foredune" means a conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development. (Ord. 86-16 § 1 (40): Ord. 86-10 § 1 (40))

17.04.265 Formula food restaurant.

"Formula food restaurant" means a restaurant required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, interior or exterior design, or uniforms. (Ord. 86-16 § 1 (42): Ord. 86-10 § 1 (42))

17.04.270 Frontage.

"Frontage" means property abutting on a street. (Ord. 86-16 § 1 (41): Ord. 86-10 § 1 (41))

17.04.275 Grade, ground level.

"Ground level grade" means the average elevation of the existing ground elevation before construction at the corner of all walls of a building. Where a building has more than four corners, the average elevation shall be measured from the four corners of a square or rectangle that encloses the foundation of the proposed structure. (Ord. 90-10 § 1 (Appx. A § 1 (4)): Ord. 86-16 § 1 (43): Ord. 86-10 § 1 (43))

17.04.277 Grading.

"Grading" means any excavation or filling or a combination thereof. (Ord. 94-29 § 1 (part))

17.04.280 Grazing.

"Grazing" means the use of land for pasture of horses, cattle, sheep, goats and/or other domestic herbivorous animals, alone or in conjunction with agricultural pursuits. (Ord. 86-16 § 1 (44): Ord. 86-10 § 1 (44))

17.04.283 Gross floor area.

"Gross floor area" means the sum, in square feet, of the gross horizontal areas of all floors of a building, as measured from the exterior walls of a building, including supporting columns and unsupported wall projections (except eaves, uncovered balconies, fireplaces and similar architectural features), or if appropriate, from the center line of a dividing wall between buildings. Gross floor area shall include:

1. Garages and carports.
2. Entirely closed porches.
3. Basement or attic areas determined to be habitable by the city's building official, based on the definitions in the building code.
4. Unhabitable basements areas where the finished floor level of the first floor above the basement is more than three feet above the average existing grade around the perimeter of the building's foundation.

In addition the calculation of gross floor area shall include the following:

5. All portions of the floor area of a story where the distance between the finished floor and the average of the top of the framed walls that support the roof system measures more than fifteen feet shall be counted as two hundred percent of that floor area. (Ord. 03-7 § 3 : Ord. 93-3 § 1: Ord. 90-11A § 1 (Appx. A § 1 (1)): Ord. 86-16 § 1 (37): Ord. 86-10 § 1 (37))

17.04.284 Group housing.

"Group housing" means a residential type building that contains sleeping rooms for unrelated individuals, but not including a residential facility or residential home. (Ord. 08-1 § 14)

17.04.285 Guest house.

"Guest house" means a structure of no more than four hundred fifty square feet of site area used in conjunction with the main building for temporary housing of non-paying visitors and guests and containing no cooking facilities. (Ord. 86-16 § 1 (46): Ord. 86-10 § 1 (46))

17.04.290 Hedge.

"Hedge" means any combination of nonannual plantings intended to form an obstruction to ingress and egress, and vision, such planting providing no physical or visual space between individual plantings and where branches or foliage of one planting physically contact adjacent plantings. (Ord. 86-16 § 1 (47): Ord. 86-10 § 1 (47))

17.04.295 Home occupation.

"Home occupation" means a business which is carried out in a dwelling unit as an accessory use to that dwelling unit. (Ord. 97-6 § 1: Ord. 86-16 § 1 (48): Ord. 86-10 § 1 (48))

17.04.300 Horticulture.

"Horticulture" means the cultivation of plants, garden crops, tree and/or nursery stock. (Ord. 86-16 § 1 (49): Ord. 86-10 § 1 (49))

17.04.302 Interdune area.

"Interdune area" means the area from the toe of the slope of the lee side of a foredune to the foreslope of the next dune landward. Interdune areas include deflation plains. (Ord. 94-08 § 3 (part))

17.04.305 Kennel.

"Kennel" means any lot or premises on which four or more dogs, more than four months of age, are kept. (Ord. 86-16 § 1 (50): Ord. 86-10 § 1 (50))

17.04.307 Kitchen.

"Kitchen" means a room, or portion of a room which is designed, intended or used for food preparation or cooking. (Ord. 03-7 § 5)

17.04.312 Limited manufacturing.

"Limited manufacturing" means an establishment engaged in the on-site production, processing, assembling and packaging of finished products by manufacturing methods which involve only the use of hand tools or light mechanical equipment and where all operations are conducted entirely within an enclosed structure and whose operations impose a negligible impact on the surrounding environment as measured in terms of noise, vibration, smoke, dust or pollutants. (Ord. 98-17 § 1)

17.04.315 Lot.

"Lot" means a plot, parcel, or tract of land. (Ord. 86-16 § 1 (52): Ord. 86-10 § 1 (52))

17.04.320 Lot abutting the oceanshore.

"Lot abutting the oceanshore" means a lot which abuts the Oregon Coordinate Line or a lot where there is no buildable lot between it and the Oregon Coordinate Line. (Ord. 86-16 § 1 (53): Ord. 86-10 § 1 (53))

17.04.325 Lot area.

"Lot area" means the total area of a lot measured in a horizontal plane within the lot boundary lines exclusive of public and private roads, except that the measurement of lot area shall not include portions of a lot located west of the Oregon Coordinate Line. (Ord. 94-08 § 1: Ord. 90-11A § 1 (Appx. A § 1 (3)): Ord. 86-16 § 1 (54): Ord. 86-10 § 1 (54))

17.04.330 Lot, corner.

"Corner lot" means a lot abutting on two streets, other than an alley, at their intersections. (Ord. 08-1 § 3: Ord. 86-16 § 1 (55): Ord. 86-10 § 1 (55))

17.04.335 Lot coverage.

"Lot coverage" means the portion of the lot area that is covered with the following improvements:

1. The area within the exterior perimeter of all buildings, including dwellings, accessory buildings, garages and carports; and

2. The area of all structures that are thirty inches in height above the existing grade, including porches, decks, stairways; and

3. Paved or graveled areas designated for off-street parking; and

4. That portion of the area of decks, less than thirty inches in height above the existing grade, patios, courtyards, and graveled and paved areas, other than designated off-street parking, which exceeds twenty-five percent of the allowable lot coverage.

Lot coverage is expressed as the percentage of the lot area that is covered by the site improvements listed above.

The following improvements shall not be included in the calculation of lot coverage:

A. Projections from buildings such as eaves, overhangs and bay windows which meet the requirements of Section 17.90.070, Projections into required yards;

B. Arbors not exceeding one hundred twenty square feet in area; and

C. Decks, less than thirty inches in height above the existing grade, patios, courtyards and graveled and paved areas, other than designated off street parking, whose total area does not exceed twenty-five percent of the allowable lot coverage.

Example: The lot size is five thousand square feet. The allowable lot coverage is fifty percent, or two thousand five hundred square feet. The proposed site improvements are: a house with an area within its exterior perimeter of one thousand five hundred square feet; a graveled parking area of four hundred square feet; and decks, less than thirty inches above grade with an area of one thousand square feet. The deck area that is included as part of the lot coverage is determined as follows: total deck area less that portion which does not exceed twenty-five percent of the allowable lot coverage of two thousand five hundred square feet or, 1,000 - 625 (.25 x 2,500) = 375 square feet. The lot coverage of the proposed development is site improvements (1,500 + 400 + 375) divided by lot area (5,000) or forty-five and one-half percent. (Ord. 92-11 § 4: Ord. 86-16 § 1 (56): Ord. 86-10 § 1 (56))

17.04.340 Lot depth.

"Lot depth" means the average horizontal distance between the front lot line and the rear lot line, where the average horizontal distance is established by utilizing ten-foot increments. (Ord. 08-1 § 4: Ord. 86-16 § 1 (57): Ord. 86-10 § 1 (57))

17.04.345 Lot, interior.

"Interior lot" means a lot that abuts only one street, other than an alley. (Ord. 08-1 § 5: Ord. 86-16 § 1 (58): Ord. 86-10 § 1 (58))

17.04.350 Lot line.

"Lot line" means the property line abounding a lot. (Ord. 86-16 § 1 (59): Ord. 86-10 § 1 (59))

17.04.355 Lot line, front.

"Front lot line" means in the case of an interior lot, the lot line separating the lot from the street, other than an alley. In the case of a corner lot or through lot, the front lot line is the shortest line along a street, other than an alley. Where a lot does not abut a street, the lot line first crossed when gaining vehicular access to the lot from a street is the front lot line. (Ord. 08-1 § 6: Ord. 86-16 § 1 (60): Ord. 86-10 § 1 (60))

17.04.360 Lot line, rear.

"Rear lot line" means a lot line opposite and most distant from the front lot line; and for an irregular or triangular shaped lot, a straight line ten feet in length, within the lot, that is parallel to and at the maximum distance from the front lot line. (Ord. 08-1 § 7: Ord. 86-16 § 1 (61): Ord. 86-10 § 1 (61))

17.04.365 Lot line, side.

"Side lot line" means, for interior lots, a line separating one lot from the abutting lot or lots fronting on the same street; for corner lots or through lots, a line other than the front lot line separating the lot from the street or a line separating the lot from an abutting lot. (Ord. 08-1 § 8: Ord. 86-16 § 1 (62): Ord. 86-10 § 1 (62))

17.04.370 Lot, through.

"Through lot" means a lot abutting two or more streets, other than an alley, that is not a corner lot. (Ord. 08-1 § 9: Ord. 86-16 § 1 (63): Ord. 86-10 § 1 (63))

17.04.375 Lot width.

"Lot width" means the average horizontal distance between the side lot lines, as measured parallel to the front lot line, where the average horizontal distance is established by utilizing ten-foot increments. (Ord. 08-1 § 10: Ord. 86-16 § 1 (64): Ord. 86-10 § 1 (64))

17.04.380 Manufactured dwelling.

"Manufactured dwelling" means:

1. A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962;

2. A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962 and June 16, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction;

3. A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

"Manufactured dwelling" does not mean any building or structure subject to the Structural Specialty Code adopted pursuant to ORS 455.100—455.450. (Ord. 90-10 § 1 (Appx. A § 1(5)): Ord. 89-3 § 1 (part): Ord. 86-16 § 1 (66): Ord. 86-10 § 1 (66))

17.04.385 Manufactured dwelling park.

"Manufactured dwelling park" means any place where four or more manufactured dwellings are located within five hundred feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the city. (Ord. 90-10 § 1 (Appx. A § 1(6)): Ord. 89-3 § 1 (part): Ord. 86-16 § 1 (67): Ord. 86-10 § 1 (67))

17.04.390 Mitigation.

"Mitigation" means the creation, restoration or enhancement of an estuarine area to maintain the functional characteristics and processes of the estuary, such as its natural biological productivity, habitats and species diversity, unique features and water quality. (ORS 541.626). (Ord. 86-16 § 1 (65): Ord. 86-10 § 1 (65))

17.04.395 Modular housing.

"Modular housing" means a dwelling unit manufactured off-site, built to be used for permanent residential occupancy, to be set on a permanent foundation and conforming to the State of Oregon, 1990 Edition, One and Two Family Dwelling Code. (Ord. 90-11 § 1 (Appx. A § 1(7)): Ord. 86-16 § 1 (68): Ord. 86-10 § 1 (68))

17.04.400 Motel.

"Motel or other tourist accommodation" means a structure or part of a structure, containing motel rental units, occupied or designed for occupancy by transients for lodging or sleeping and including the terms "hotel" and "inn," but shall not include the term "bed and breakfast establishment" or the transient occupancy of a dwelling unit regulated by this chapter. (Ord. 92-1 § 2: Ord. 87-5 § 1: Ord. 86-16 § 1 (69): Ord. 86-10 § 1 (69): Ord. 85-1 § 1)

17.04.405 Motel rental unit.

"Motel rental unit" means one bathroom and not more than three bedrooms. A "bathroom" is defined as consisting, at a minimum, of a toilet. (Ord. 90-10 § 1 (Appx. A § 1 (8)): Ord. 86-16 § 1 (70): Ord. 86-10 § 1(70))

17.04.412 Nonstructural shoreline stabilization program.

"Nonstructural shoreline stabilization program" means the process of controlling erosion or accretion by planting or propagating stabilizing vegetation and/or the temporary placement of sand fences. (Ord. 94-08 § 3 (part))

17.04.415 Ocean flooding.

"Ocean flooding" means the flooding of lowland areas by salt water owing to tidal action, storm surge or tsunamis (seismic sea waves). Land forms subject to ocean flooding include beaches, marshes, coastal lowlands and low lying interdune areas. Areas of ocean flooding are mapped by the Federal Emergency Management Agency (FEMA). Ocean flooding includes areas of velocity flooding and associated shallow marine flooding. (Ord. 86-16 § 1(72): Ord. 86-10 § 1(72))

17.04.417 Office.

"Office" means premises where services such as clerical, professional, or medical are provided. (Ord. 08-1 § 14)

17.04.420 Outdoor merchandising.

"Outdoor merchandising" means the sale or display for sale of merchandise or services outside of an enclosed building space; including sales which are transacted through an open window. The term "merchandise" does not include benches and other types of seating which are provided for the convenience of the general public. (Ord. 97-2 § 1: Ord. 86-16 § 1(73): Ord. 86-10 § 1(73))

17.04.425 Owner.

"Owner" means and includes an authorized agent of the owner. (Ord. 86-16 § 1 (74): Ord. 86-10 § 1(74))

17.04.432 Park trailer.

"Park trailer" means a vehicle built on a single chassis, mounted on wheels, designed to provide seasonal or temporary living quarters which may be connected to utilities for operation of installed fixtures and appliances, and of such a construction as to permit setup by persons without special skills using hand tools which may include lifting, pulling and supporting devices and a gross trailer area not exceeding four hundred square feet when in the setup mode. Such a vehicle shall be referred to and identified by the manufacturer or converter as a recreational vehicle. (Ord. 91-3 § 1)

17.04.435 Permit.

"Permit" means discretionary approval of a proposed development of land under ORS 227.215. (Ord. 89-3 § 1 (part))

17.04.440 Person.

"Person" means any individual, firm, partnership, association, cooperative, social or fraternal organization, corporation, limited liability company, estate, trustee, receiver, syndicate, governmental unit or any other group or combination acting as a unit. (Ord. 95-13 § 1: Ord. 86-16 § 1 (76): Ord. 86-10 § 1(76))

17.04.445 Piling.

"Piling" means the driving of wood, concrete or steel piling into the bottom in aquatic areas to support piers or docks, structures, moored floating structures, or other purposes. (Ord. 86-16 § 1 (77): Ord. 86-10 § 1(77))

17.04.447 Private parking lot.

"Private parking lot" means an area designed for the off-street parking of vehicles where an hourly or daily fee is charged for the use of the parking spaces and where those parking spaces are not provided in or-

der to satisfy off-street parking requirements of a permitted or conditional use. A private parking lot does not include an area designed for the off-street parking of vehicles where those parking spaces are made available through monthly or yearly lease arrangements. (Ord. 97-13 § 1)

17.04.448 Protected wetland.

"Protected wetland" means areas in the wetlands overlay zone that have been identified on the city's inventory or on a subsequent detailed delineation as critical wetlands. (Ord. 94-29 § 1 (part))

17.04.450 Public need.

"Public need" means a substantial public benefit which accrues to the community as a whole. (Ord. 86-16 § 1(78): Ord. 86-10 § 1(78))

17.04.455 Recreational vehicle.

"Recreational vehicle" means a vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a gross floor space of less than four hundred square feet. "Recreational vehicle" includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversion, tent trailers, travel trailers, truck campers and any vehicle converted for use as a recreational vehicle. The unit shall be identified as a recreational vehicle by the manufacturer. (Ord. 90-10 § 1 (Appx. A § 1(9)): Ord. 86-16 § 1(79): Ord. 86-10 § 1 (79))

17.04.460 Recreation vehicle park.

"Recreation vehicle park" means an area licensed by the state for the parking of recreational vehicles. (Ord. 86-16 § 1 (80): Ord. 86-10 § 1(80))

17.04.463 Recycling facility.

"Recycling facility" means a facility or site where separated recyclable materials are collected for transport to another location. The term "recyclable materials" does not include materials used to produce compost, such as yard debris. (Ord. 98-03 § 1)

17.04.467 Reload facility.

"Reload facility" means a facility or site that accepts and reloads only yard debris for transport to another location. (Ord. 98-03 § 2)

17.04.470 Residential facility.

"Residential facility" means a facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with training or treatment or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements need not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (Ord. 90-10 § 1 (Appx. A § 1(11)): Ord. 89-3 § 1 (part))

17.04.475 Residential home.

"Residential home" means a home licensed by or under the authority of the Department of Human Resources under ORS

443.400 to 443.825 which provides residential care alone or in conjunction with training or treatment or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (Ord. 90-10 § 1 (Appx. A § 1(12)): Ord. 89-3 § 1 (part))

17.04.480 Resource capability.

"Resource capability" means a use or activity which is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effects and continue to function in a manner which conserves long term renewable resources, natural biological productivity, recreation and aesthetic values. (Ord. 86-16 § 1 (81): Ord. 86-10 § 1 (81))

17.04.485 Restoration.

"Restoration" means revitalizing, returning or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities or catastrophic events. (Ord. 86-16 § 1 (82): Ord. 86-10 § 1 (82))

17.04.490 Restoration, active.

"Active restoration" means and involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities or rebuilding deteriorated urban waterfront areas. (Ord. 86-16 § 1 (83): Ord. 86-10 § 1 (83))

17.04.495 Restoration, estuarine.

"Estuarine restoration" means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work began. (Ord. 86-16 § 1 (84): Ord. 86-10 § 1 (84))

17.04.500 Restoration, passive.

"Passive restoration" is the use of natural processes, sequences and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action. (Ord. 86-16 § 1 (85): Ord. 86-10 § 1 (85))

17.04.503 Retail.

"Retail" means premises in which goods or commodities are sold, rented or leased directly to the final consumer. (Ord. 08-1 § 14)

17.04.505 Riparian.

"Riparian" means of, or pertaining to, or situated on the edge of the bank of a river or other body of water. (Ord. 86-16 § 1 (86): Ord. 86-10 § 1 (86))

17.04.507 Riparian vegetation.

"Riparian vegetation" means grasses, shrubs and trees growing along the shoreline adjacent to an aquatic area or a wetland. (Ord. 94-29 § 1 (part))

17.04.510 Rip-rap.

"Rip-rap" is a layer, facing or protective mound of stones placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. (Ord. 86-16 § 1 (87): Ord. 86-10 § 1 (87))

17.04.515 Scale.

"Scale" means the relationship in size between one building and another. (Ord. 86-16 § 1 (88): Ord. 86-10 § 1 (88))

17.04.520 Shoreland stabilization.

"Shoreland stabilization" means the protection of the banks of tidal or inter-tidal streams, rivers, estuarine waters and the oceanfront by vegetative or structural means. (Ord. 94-08 § 2: Ord. 86-16 § 1 (89): Ord. 86-10 § 1 (89))

17.04.525 Sign or sign related definitions.

The following definitions pertain to signs:

A. "Abandoned sign" means a sign pertaining to a use or lot where the message of the sign no longer pertains to a use or activity occurring on the lot;

B. "Awning sign" means a sign that is placed on a temporary or movable shelter supported entirely from the exterior wall of a building;

C. "Bench sign" means a sign painted on or attached to a bench;

D. "Building frontage" means an exterior building wall facing a street, parking lot or pedestrian walkway;

E. "Business frontage" means the lineal frontage of a building or portion thereof devoted to a specific business and having an entrance open to the general public;

F. "Corner sign" means a sign that is placed on a lot so as to be visible from two public streets;

G. "Freestanding sign" means a sign on a frame, pole or other support structure which is not attached to any building or permanent structure;

H. "Frontage" means the single full surface of a building facing a given direction;

I. "Incidental sign" means a sign, other than a temporary or lawn sign, which does not require a permit;

J. "Lawn sign" means a temporary freestanding sign made of rigid materials;

K. "Permanent sign" means a sign attached to a building, structure or the ground in some manner, having a sign face area of four square feet or more and made of materials intended for more than short-term use;

L. "Projecting sign" means a sign attached to and projecting out from a building face or wall and generally at right angles to the building;

M. "Readerboard sign" means a sign which can accommodate changeable copy;

N. "Sandwich board sign" means a sign not supported by a structure in the ground, nor attached to or erected against a structure, and capable of being moved;

O. "Sign" means any identification, description, illustration, symbol or device which is affixed upon a building, structure or land and whose primary purpose is to convey a message;

P. "Site frontage" means the length of the property line parallel to and along each public right-of-way;

Q. "Temporary sign" means a sign not permanently attached to a building, structure or the ground;

R. "Undeveloped site" means a lot with no permanent structure which contains a use permitted by the zone in which it is located;

S. "Wall graphic" means a painting or other graphic art technique which is applied directly to the wall or face of a building or structure;

T. "Wall sign" means a sign attached to or erected against the wall of a building with the sign face in a parallel plane of the building wall;

U. "Window sign" means a sign permanently affixed to the window panes of a building. (Ord. 89-29 § 1: Ord. 88-1 § 1; Ord. 86-16 § 1 (90): Ord. 86-10 § 1 (90))

17.04.530 Solar access.

"Solar access" means the exposure of a building to the sun which enables such a building to obtain south-facing surface area exposure, in excess of fifty percent on the date of the winter solstice, adequate for solar space heating or water heating purposes. (Ord. 86-16 § 1 (91): Ord. 86-10 § 1 (92))

17.04.533 Stabilizing vegetation.

"Stabilizing vegetation" means plants that are able to withstand accretion of sand typically occurring in an active or conditionally stable dune area. Examples are: European beachgrass (Ammophila arenaria), American dunegrass/Sea lyme grass (elymus mollis), American beachgrass (Ammophila breviligulata), and Coast willow (Salix hookeriana). (Ord. 94-8 § 3 (part))

17.04.534 Stream.

"Stream" means a body of running water flowing perennially or intermittently in a channel on or below the surface of the ground. Streams do not include ditches of storm drainage channels that are located in a street right-of-way. (Ord. 94-30 § 1)

17.04.535 Street.

"Street" means the entire width between the right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley" and other similar designations. (Ord. 86-16 § 1 (92): Ord. 86-10 § 1 (93))

17.04.540 Structure.

"Structure" means any man-made assemblage of materials extending above the surface of the ground and permanently affixed or attached, or where not permanently affixed or attached to the ground not readily portable, but not including landscape improvements such as rock walls, retaining walls less than four feet in height, flag poles, and other minor incidental improvements similar to those described above. (Ord. 08-1 § 13: Ord. 86-16 § 1 (93): Ord. 86-10 § 1 (94))

17.04.545 Timeshare condominium.

"Timeshare condominium" means a condominium in which units are individually owned by a family or group of persons for a variable amount of time during the year, and in which part or all of the units may be available to transients for rent or on an exchange basis. For the purposes of this title, timeshare condominium or unit shall be considered a motel. (Ord. 86-16 § 1 (94): Ord. 86-10 § 1 (95))

17.04.550 Transient merchant.

"Transient merchant" means a person who travels from place to place, either carrying his goods with him, selling and delivering at the same time, or not carrying his goods but taking orders for future delivery. Transient merchant includes those who occupy a temporary fixed location, selling and delivering from stock on hand, doing business in much the same manner as a permanent business, with the principal difference being the temporary nature of the business location. (Ord. 86-16 § 1 (95): Ord. 86-10 § 1 (96))

17.04.552 Transient rental occupancy.

"Transient rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of less than fourteen calendar days, counting portions of days as full days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property. (Ord. 04-9A § 4: Ord. 92-1 § 3 (part))

17.04.555 Tree.

"Tree" means any woody plant having at least one well-defined stem at least six inches in diameter measured at a height of four and one-half feet above the natural grade. (Ord. 86-16 § 1 (96): Ord. 86-10 § 1 (97))

17.04.560 Tree removal.

"Tree removal" means the cutting down of a live tree or an act which causes a tree to die within a period of two years, including, but not limited to, damage inflicted upon the root system by machinery, storage of materials, and soil compaction; changing the natural grade above the root system or around the trunk; damage inflicted on the tree permitting infection or pest infestation; excessive pruning; paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree. (Ord. 86-16 § 1(97): Ord. 86-10 § 1 (98))

17.04.562 Use.

"Use" means the purpose for which land or a structure is designed, arranged or intended, or for which it is occupied or maintained. (Ord. 86-16 § 1 (98): Ord. 86-10 § 1 (99))

17.04.563 Vacation home rental occupancy.

"Vacation home rental occupancy" means the use of a dwelling unit by any person or group of persons who occupies or is entitled to occupy a dwelling unit for remuneration for a period of time between fourteen and thirty days. "Remuneration" means compensation, money, rent or other bargained for consideration given in return for occupancy, possession or use of real property. (Ord. 04-9A § 5)

17.04.564 Vehicle trip.

"Vehicle trip" means a single one direction vehicle movement to a particular destination. (Ord. 03-8 § 1)

17.04.566 Wetland.

"Wetland" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient

to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (Ord. 94-29 § 1 (part))

17.04.567 Wetland buffer area.

"Wetland buffer area" means a nonwetland area in the wetlands overlay zone surrounding the protected wetlands. (Ord. 94-29 § 1 (part))

17.04.568 Wetland delineation.

"Wetland delineation" means a site-specific determination of the boundary between uplands and wetlands for a given parcel of land based on field indicators of vegetation, soils and hydrology. The delineation is to be undertaken in accordance with a method acceptable to the US Army Corps of Engineers and the Oregon Division of State Lands. (Ord. 9429 § 1 (part))

17.04.569 Wood waste processing.

"Wood waste processing" means a site where woody material is collected for processing and subsequent storage or transport to another location. The term "woody material" includes branches, limbs, bark, stumps and similar material, but does not include lumber. The term "processing" is limited to chipping and grinding and does not include composting, where composting is defined as a managed process of controlled biological decomposition. (Ord. 98-8 § 1)

17.04.570 Yard.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title. (Ord. 86-16 § 1 (99): Ord. 86-10 § 1 (100))

17.04.575 Yard, front.

"Front yard" means a yard between side lot lines and measured horizontally at right angles to the front lot line to the nearest point of the building. For all lots abutting the ocean shore, the required yard shall be measured from the most easterly of either the lot line, or the vegetation line as established and described according to the Oregon Coordinate System. (Ord. 86-16 § 1 (100): Ord. 86-10 § 1 (101))

17.04.578 Yard, ocean.

"Ocean yard" means a yard measured horizontally at right angles from the most easterly of Oregon Coordinate Line or the western property line, to the nearest point of a building. An ocean yard may be a front yard, a rear yard or a side yard. (Ord. 92-11 § 7)

17.04.580 Yard, rear.

"Rear yard" means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building. For all lots abutting the ocean shore, the required yard shall be measured from the most easterly of either the lot line or the vegetation line as established and described according to the Oregon Coordinate System. (Ord. 86-16 § 1 (101))

17.04.585 Yard, side.

"Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to

the nearest point of the building. For all lots abutting the ocean shore, the required yard shall be measured from the most easterly of either the lot line, or the vegetation line as established and described according to the Oregon Coordinate System. (Ord. 86-16 § 1 (102): Ord. 86-10 § 1 (102))

17.04.590 Yard, street side.

"Street side yard" means a yard adjacent to a street between the front yard and the rear lot line measured horizontally and at right angles from the side lot line to the nearest point of the building. (Ord. 86-16 § 1 (103): Ord. 86-10 § 1 (103))

Chapter 17.06

ZONING DISTRICTS ESTABLISHED

Sections:

17.06.010 Compliance with provisions.
17.06.020 Classification of zones.
17.06.030 Location of zones.
17.06.040 Zoning of annexed areas.

17.06.010 Compliance with provisions.

A lot may be used and a structure or part of a structure constructed, reconstructed, altered, occupied or used only as this title permits. (Ord. 79-4 § 1 (2.010))

17.06.020 Classification of zones.

For the purpose of this title, the following zones have been established in the city:

Zone description	Abbreviated Description
Residential. Very Low Density	RVL
Residential, Lower Density	RL
Residential, Moderate Density	R1
Residential, Medium Density	R2
Residential, High Density	R3
Residential, Alternative/Manufactured Dwelling	RAM
Residential/Motel	RM
Commercial, Limited	C1
Commercial, General	C2
Manufactured Dwelling Park & Recreational Vehicle Park	MP
Open Space Recreation	OSR
Estuary	E
Park Management	PK
Open Space	OS
Institutional	IN

Zone description	Abbreviated Description
Flood Hazard Overlay	FHO
Planned Development	PD
Oceanfront Management Overlay Zone	OM
Wetlands Overlay Zone	WO

(Ord. 90-10 § 1 (Appx. A § 2): Ord. 8928 § 1: Ord. 84-7 § 1 (part); Ord. 79-4 § 1 (2.020))

17.06.030 Location of zones.

The boundaries for zones listed in this title are indicated on a map entitled "Land Use and Zoning Map of Cannon Beach, Oregon," which is adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which are adopted by reference. The comprehensive plan and land use map are considered the same. (Ord. 79-4 § 1 (2.030))

17.06.040 Zoning of annexed areas.

Zoning regulations applicable to an area shall continue to be applied until a zone change has been applied for and adopted by the city council. (Ord. 79-4 § 1 (2.050))

Chapter 17.08

RESIDENTIAL VERY LOW DENSITY (RVL) ZONE

Sections:

17.08.010 Purpose.
17.08.020 Uses permitted outright.
17.08.030 Conditional uses permitted.
17.08.040 Standards.

17.08.010 Purpose.

The purpose of the RVL zone is to establish a very low density residential area (minimum lot size one acre for a dwelling unit) in areas with steep slopes, lack of city services or existing low density land use patterns. The RVL area is intended to be a future growth area of the city, where higher density development shall, where practicable, be permitted upon annexation and zone amendment, and where geologic stability and availability of city services are demonstrated. In the RVL zone the provisions in Sections 17.08.020 through 17.08.040 apply. (Ord. 79-4 § 1 (3.010)(part))

17.08.020 Uses permitted outright.

In an RVL zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

B. Parks or publicly owned recreation areas;

C. Utility lines necessary for public service;

D. A manufactured dwelling or recreational vehicle not exceeding three hundred

square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

E. Home occupation Type I, which satisfies the requirements of Section 17.54.040;

F. Residential home, or residential facility;

G. Family day care center or adult day care center;

H. Accessory dwelling which satisfies the requirements of Section 17.54.080;

I. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-10 § 1; Ord. 06-3 § 1; Ord. 97-6 § 2; Ord. 94-5 § 1; Ord. 92-11 § 8; Ord. 90-11A § 1 (Appx. A § 2); Ord. 90-10 § 1 (Appx. A § 3); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.010)(1))

17.08.030 Conditional uses permitted.

In an RVL zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. Public or private school or college;

B. Governmental or municipal structure necessary for public service in the area, including utility substations or similar facility;

C. Forest management activities;

D. Cottage industry which satisfies the requirements in Section 17.80.280;

E. Day care center;

F. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

G. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 2; Ord. 06-10 § 2; Ord. 97-6 § 3; Ord. 95-8 § 4; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.010)(2))

17.08.040 Standards.

In an RVL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be one acre per dwelling unit, except that lots of less than one acre in single, noncontiguous ownership prior to the date of enactment of the ordinance codified in this title are considered buildable subject to the other provisions of this title and the comprehensive plan. Lower density may be required on the basis of geologic hazards, percent of slope, availability of city services and vehicular access and circulation. The planning commission shall review partitions, subdivisions, planned developments and other development proposals under these criteria. The planning commission may authorize the placement of a government or municipal structure necessary for public service on a lot of less than one acre if it finds a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses.

B. Lot Dimensions and Yard Requirements. There are no lot dimension requirements. For lots of more than ten thousand square feet in size, no structure shall be located within twenty feet of a lot line. For lots that are ten thousand square feet in size or less: a front yard shall be at least fifteen feet;

a side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet; and a rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed .5.

E. Positioning of Structures for Future Subdivision. In areas where the future intention of the property or lot is further partitioning or subdivision, the planning commission shall, where practicable, require that structures be located so as to facilitate the future division of the land in a manner that accommodates smaller lot sizes and the extension of streets and utilities.

F. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

G. Signs. As allowed by Chapter 17.56.

H. Parking. As required by Section 17.78.020.

I. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.

J. Geologic or Soils Engineering Study. As required by Chapter 17.50.

K. Zone Changes. Upon request of property owners, or their representatives, the planning commission may consider the change of an area of the RVL zone to another zone in order to obtain more intensive usage or higher densities where it is demonstrated by the applicant that:

1. A favorable geologic investigation indicates that the area will support more intensive development;

2. City services are available, or will be provided, including adequate water pressure, sewer and water system capacity and street width;

3. Traffic circulation patterns will not place a burden on neighborhood streets;

4. The county planning commission has been given adequate opportunity to review the proposal and provide comment to the city.

L. Claims for Compensation Under ORS 197.352. The standards of subsections A through K of this section, Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 § 15; Ord. 06-3 § 2; Ord. 00-4 § 1; Ord. 92-11 §§ 9, 10; Ord. 90-3 § 2; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.010) (3))

Chapter 17.10

RESIDENTIAL LOWER DENSITY (RL) ZONE

Sections:

17.10.010 Purpose.
17.10.020 Uses permitted outright.
17.10.030 Conditional uses permitted.
17.10.040 Standards.

17.10.010 Purpose.

The purpose of the RL zone is to provide an area of lower density (four dwelling units per net acre) in areas with steeper slopes, poor drainage or identified geologic hazards. (Ord. 79-4 § 1 (3.020)(part))

17.10.020 Uses permitted outright.

In an RL zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

B. Public parks or publicly owned recreation area;

C. Utility lines necessary for public service;

D. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

E. Home occupation Type I, which satisfies the requirements of Section 17.54.040;

F. Residential home, or residential facility;

G. Family day care center or adult day care center;

H. Accessory dwelling which satisfies the requirements of Section 17.54.080;

I. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-10 § 3; Ord. 06-3 § 3; Ord. 97-6 § 4; Ord. 94-5 § 2; Ord. 92-11 § 11; Ord. 90-11A § 1 (Appx. A § 3); Ord. 90-10 § 1 (Appx. A § 4); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.020)(1))

17.10.030 Conditional uses permitted.

In an RL zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. Church or community meeting hall;

B. Public or private school or college;

C. Governmental or municipal structure such as a fire station, utility substation or other facility, including power substations or facilities;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.80.230;

E. Day care center;

F. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

G. Community garden, which satisfies the requirements of Section 17.80.155. (Ord. 09-4 § 3; Ord. 06-10 § 4; Ord. 97-6 § 5; Ord. 95-8 § 5; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.020)(2))

17.10.040 Standards.

In an RL zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least ten thousand square feet. Lots of less than ten thousand square feet may be buildable pursuant to Section 17.82.020; provided, that such lots were not part of an aggregate of contiguous lots with an area or dimension of ten thousand square feet or greater held in a single ownership at the time of enactment of Ordinance 79-4A. Where there are lots held in a single contiguous ownership and one of the lots or combination of lots meets the minimum lot size but the other lot or combination of lots does not meet the minimum lot size, there shall be only one buildable lot. Example: three contiguous lots in a single ownership, each lot with an area of five thousand square feet, constitute one buildable lot.

The planning commission may authorize the placement of a governmental or municipal structure necessary for public service on a lot of less than ten thousand square feet if it is found that a larger lot is not required and that the smaller lot size will not have a detrimental effect on adjacent areas or uses.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least seventy-five feet.

2. Lot Depth. Lot depth shall be at least ninety feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A) (6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use on a lot of six thousand square feet or more shall not exceed .5. The maximum gross floor area for a permitted or conditional use on a lot of more than five thousand square feet, but less than six thousand square feet, shall not exceed three thousand square feet. The floor area ratio for a permitted or conditional use on a lot with an area of five thousand square feet or less shall not exceed .6.

E. Building Height. Maximum height of a vertical structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.56.

G. Parking. As required by Section 17.78.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.

I. Geologic or Soils Engineering Study. As required by Chapter 17.50.

J. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 §§ 16—18; Ord. 06-3 § 4; Ord. 94-08 § 4; Ord. 93-3 § 2; Ord. 92-11 §§ 12—14; Ord. 90-3 § 3; Ord. 90-11A § 1 (Appx. A § 4); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.020)(3))

Chapter 17.12

RESIDENTIAL MODERATE DENSITY (R1) ZONE

Sections:

17.12.010 Purpose.
17.12.020 Uses permitted outright.
17.12.030 Conditional uses permitted.
17.12.040 Standards.

17.12.010 Purpose.

The purpose of the R1 zone is to provide an area of moderate density (eight dwelling units per net acre) in areas of stable soils, lower slopes and with neighborhoods of existing single-family character. In an R1 zone, the provisions in Sections 17.12.020 through 17.12.040 apply. (Ord. 79-4 § 1 (3.030) (part))

17.12.020 Uses permitted outright.

In an R1 zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

B. Public park or publicly owned recreation area;

C. Utility lines necessary for public service;

D. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

E. Home occupation Type I, which satisfies the requirements of Section 17.54.040;

F. Residential home, or residential facility;

G. Family day care center or adult day care center;

H. Accessory dwelling which satisfies the requirements of Section 17.54.080;

I. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-10 § 5; Ord. 06-3 § 5; Ord. 97-6 § 6; Ord. 94-5 § 3; Ord. 92-11 § 15; Ord. 90-11A § 1 (Appx. A § 5); Ord. 90-10 § 1 (Appx. A § 5); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.030)(1))

17.12.030 Conditional uses permitted.

In an R1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. A church or community meeting hall;

B. Governmental or municipal structure, including a utility substation or other similar facility;

C. Public or private school or college;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.80.230;

E. Day care center;

F. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

G. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 4; Ord. 06-10 § 6; Ord. 97-6 § 7; Ord. 95-8 § 6; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.030)(2))

17.12.040 Standards.

In an RI zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to the standards of Section 17.82.020.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed 0.6.

E. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.56.

G. Parking. As required by Section 17.78.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.

I. Geologic or Soils Engineering Study. As required by Chapter 17.50.

J. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 §§ 19, 20; Ord. 06-10 § 7; Ord. 06-3 § 6; Ord. 94-08 § 5; Ord. 93-3 § 3; Ord. 92-11 §§ 16—18; Ord. 90-3 § 4; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.030)(3))

Chapter 17.14

RESIDENTIAL MEDIUM DENSITY (R2) ZONE

Sections:

17.14.010 Purpose.
17.14.020 Uses permitted outright.
17.14.030 Conditional uses permitted.
17.14.040 Standards.

17.14.010 Purpose.

The purpose of the R2 zone is to provide an area of moderate density (eleven dwelling units per net acre) in areas with stable soils, lower slopes and mixed neighborhood character. In an R2 zone the provisions of Sections 17.14.020 through 17.14.040 apply. (Ord. 79-4 § 1 (3.040)(part))

17.14.020 Uses permitted outright.

In an R2 zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

B. Two-family dwelling;

C. Public park or publicly owned recreation area;

D. Utility lines necessary for public service;

E. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

F. Home occupation Type I, which satisfies the requirements of Section 17.54.040;

G. Residential home, or residential facility;

H. Family day care center or adult day care center;

I. Accessory dwelling which satisfies the requirements of Section 17.54.080;

J. Claims for Compensation Under ORS 197.352. A specific individual use or structures modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 7; Ord. 97-6 § 8; Ord. 95-8 § 7; Ord. 94-5 § 4; Ord. 92-11 § 19; Ord. 90-11 A § 1(Appx. A § 6); Ord. 90-10 § 1 (Appx. A § 6); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.040)(1))

17.14.030 Conditional uses permitted.

In an R2 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. A church or community meeting hall;

B. Governmental or municipal structure, including a utility substation or other similar facility;

C. Public or private school or college;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.80.230;

E. Bed and breakfast consistent with Chapter 17.74;

F. A studio in conjunction with an artist's residence in which only the artist's work is displayed or sold;

G. Day care center;

H. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

I. Community garden, which satisfies the requirements of Section 17.80.155.
(Ord. 09-4 § 5; Ord. 97-6 § 9; Ord. 92-11 § 20; Ord. 90-10 § 1 (Appx. A § 7); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.040)(2))

17.14.040 Standards.

In an R2 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to Section 17.82.020. The minimum lot size for a single-family dwelling shall be five thousand square feet.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050 (A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use shall not exceed 0.6.

E. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.56.

G. Parking. As required by Section 17.78.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to design review of Chapter 17.44.

I. Geologic or Soils Engineering Study. As required by Chapter 17.50.

J. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 §§ 21, 22; Ord. 06-10 § 8; Ord. 06-3 § 8; Ord. 94-08 § 6; Ord. 93-3 § 4; Ord. 92-11 §§ 21—23; Ord. 90-3 § 5; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.040)(3))

Chapter 17.16

RESIDENTIAL HIGH DENSITY (R3) ZONE

Sections:

17.16.010	**Purpose.**
17.16.020	**Uses permitted outright.**
17.16.030	**Conditional uses permitted.**
17.16.040	**Standards.**

17.16.010 Purpose.

The purpose of the R3 zone is to provide an area of higher density (up to fifteen dwelling units per net acre), in areas with stable soils, lower slopes, adequate traffic access and compatibility with existing development character. (Ord. 79-4 § 1 (3.050)(part))

17.16.020 Uses permitted outright.

In an R3 zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

B. A two-family dwelling;

C. Multifamily dwelling, other than a limited triplex;

D. Limited triplexes consistent with Section 17.90.090;

E. Public park or publicly owned recreation area;

F. Utility lines necessary for public service;

G. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for

which a building permit has been issued, but not to exceed one year;

H. Home occupation Type 1, which satisfies the requirements of Section 17.54.040;

I. Residential home;

J. Family day care center or adult day care center;

K. Accessory dwelling which satisfies the requirements of Section 17.54.080;

L. A motel on a particular site, provided that the motel was in operation on that site on June 19, 1979, and has remained continuously in operation on that site since that date. A motel has remained in operation continuously if it has not been closed or otherwise unable to receive guests for any continuous period of one year since June 19, 1979;

M. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 9; Ord. 05-3 § 1; Ord. 97-6 § 10; Ord. 95-8 § 8; Ord. 94-5 § 5; Ord. 92-11 §§ 24, 25; Ord. 90-11A § 1 (Appx. A § 7); Ord. 90-10 § 1 (Appx. A § 8); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.050)(1))

17.16.030 Conditional uses permitted.

In an R3 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. A church or community meeting hall;

B. Governmental or municipal structure including a utility substation or other similar facility;

C. Public or private school or college;

D. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.80.230;

E. Day care center;

F. Bed and breakfast consistent with Ch. 17.74;

G. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

H. Assisted living facility.

I. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 6; Ord. 08-1 § 23; Ord. 97-6 § 11; Ord. 92-12 § 1; Ord. 92-11 § 26; Ord. 90-10 § 1(Appx. A § 9); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.050)(2))

17.16.040 Standards.

In an R3 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots of less than five thousand square feet is permitted subject to the standards of Section 17.82.020. The minimum lot size for a two-family dwelling shall be five thousand square feet. The density of limited triplexes shall be in conformance with Section 17.90.090. The density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or

use as a short-term rental pursuant to Chapter 17.77. The maximum density of motels and assisted living facilities shall be one unit per one thousand square feet of site area.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Yard Abutting the Ocean Shore. For lots abutting the ocean shore, any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A) (6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a permitted or conditional use, other than a multifamily dwelling, shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use, other than a multifamily dwelling or assisted living facility, shall not exceed .6.

E. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.56.

G. Parking. As required by Section 17.78.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.

I. Geologic or Soils Engineering Study. As required by Chapter 17.50.

J. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) though (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 §§ 24—27; Ord. 06-10 § 9; Ord. 06-3 § 10; Ord. 94-08 § 7; Ord. 93-3 § 5; Ord. 92-11 §§ 27—28; Ord. 90-3 § 6; Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.050)(3))

Chapter 17.18

RESIDENTIAL ALTERNATIVE/MANUFACTURED DWELLING (RAM) ZONE

Sections:

17.18.010 Purpose.
17.18.020 Uses permitted outright.
17.18.030 Conditional uses permitted.
17.18.040 Standards.

17.18.010 Purpose.

The purpose of the RAM zone is to provide an area in which conventional residential uses, alternative low-cost housing and manufactured dwellings can be established at moderate to higher densities (eleven dwelling units per net acre). In the RAM zone the regulations set out in Sections 17.18.020 through 17.18.040 apply. (Ord. 90-10 § 1 (Appx. A § 11): Ord. 79-4 § 1 (3.060)(part))

17.18.020 Uses permitted outright.

In an RAM zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, including modular housing;

B. Manufactured home meeting the standards of section 17.68.020;

C. Two-family dwelling;

D. Public park or publicly owned recreation area;

E. Utility lines necessary for public service;

F. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

G. Home occupation Type I, which satisfies the requirements of Section 17.54.040;

H. Residential home and residential facility;

I. Family day care center or adult day care center;

J. Accessory dwelling which satisfies the requirements of Section 17.54.080;

K. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 11; Ord. 97-6 § 12; Ord. 95-8 § 9; Ord. 94-5 § 6; Ord. 92-11 § 30; Ord. 90-11A § 1 (Appx. A § 8); Ord. 90-10 § 1 (Appx. A § 12); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.060)(1))

17.18.030 Conditional uses permitted.

In an RAM zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. A church or community meeting hall;

B. Governmental or municipal structure including a utility substation or other similar facility;

C. Public or private school or college;

D. Day care center;

E. Manufactured dwelling park;

F. Multifamily dwellings;

G. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

H. Assisted living facility.

I. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 7; Ord. 08-1 § 28; Ord. 97-6 § 13; Ord. 92-11 § 31; Ord. 90-10 § 1 (Appx. A §§ 13, 14); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.060)(2))

17.18.040 Standards.

In an RAM zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. The minimum lot size for a single-family dwelling, manufactured dwelling, modular home and a duplex shall be five thousand square feet. The density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77. The maximum density of assisted living facilities shall be one residential unit per one thousand square feet of site area.

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

C. Lot Coverage. The lot coverage for a permitted or conditional use, other than a multifamily dwelling, shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a permitted or conditional use, other than a multifamily dwelling or assisted living facility, shall not exceed .6.

E. Building Height. Maximum height of a structure shall be twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Manufactured Dwellings. Manufactured dwellings shall be located in accordance with the requirements of Chapter 17.68.

G. Parking. As required by Section 17.78.020.

H. Signs. As allowed by Chapter 17.56.

I. Design Review. All uses except single-family dwellings, manufactured dwellings and modular housing and their accessory structures are subject to the provisions of Chapter 17.44.

J. Geologic or Soils Engineering Study. As required by Chapter 17.50.

K. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 §§ 29—32; Ord. 06-3 § 12; Ord. 93-3 § 6; amended during 7/92 supplement; Ord. 92-11 §§ 32—43; Ord. 90-3 § 7; Ord. 90-10 § 1 (Appx. A § 15); Ord. 89-3 § 1 (part); Ord. 794 § 1 (3.060)(3))

Chapter 17.20

RESIDENTIAL MOTEL (RM) ZONE

Sections:

17.20.010	**Purpose.**
17.20.020	**Uses permitted outright.**
17.20.030	**Conditional uses permitted.**
17.20.040	**Standards.**

17.20.010 Purpose.

The purpose of the RM zone is to provide an area for the establishment of motels and hotels and to prevent the utilization of motel property for non-motel commercial uses. Residential uses, including single-family, duplex and multifamily dwellings at a maximum density of fifteen dwelling units per acre are also permitted. In an RM zone the regulations in Sections 17.20.020 through 17.20.040 apply. (Ord. 79-4 § 1 (3.070)(part))

17.20.020 Uses permitted outright.

In an RM zone the following uses and their accessory uses are permitted outright:

A. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

B. A two-family dwelling;

C. Multifamily dwelling;

D. Motel or other tourist accommodation, including meeting rooms which are not in excess of thirty-five square feet per hotel or motel unit in size;

E. Bed and breakfast consistent with Chapter 17.74;

F. Public park or publicly owned recreation area;

G. Utility lines necessary for public service;

H. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued but not to exceed one year;

I. Home occupation Type I, which satisfies the requirements of Section 17.54.040;

J. Residential home or residential facility;

K. Family day care center or adult day care center;

L. Accessory dwelling which satisfies the requirements of Section 17.54.080;

M. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met.

(Ord. 06-3 § 13; Ord. 97-6 § 14; Ord. 95-8 § 10; Ord. 94-5 § 7; Ord. 90-11 A § 1 (Appx. A § 9); Ord. 90-10 § 1 (Appx. A § 16); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.070)(1))

17.20.030 Conditional uses permitted.

In an RM zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. Church or community meeting hall;

B. Governmental or municipal structure, including a utility substation or other similar facility;

C. Public or private school or college;

D. Art gallery or studio;

E. Gift shop which is an integral part of the operation of the tourist accommodation, provided, however, that these operations are subordinate to the tourist accommodation and remain under the same ownership, that the use be located on the same contiguously owned property and that it will not exceed two hundred square feet in area;

F. Restaurant which is an integral part of the operation of the tourist accommodation; provided, however, that these operations are subordinate to the tourist accommodation operation and remain under the same ownership;

G. Meeting rooms which are in excess of thirty-five square feet per tourist accommodation unit in size. Parking requirements of Section 17.78.020 apply to that portion of the meeting room that is in excess of the allowed thirty-five square feet per unit;

H. Structural shoreline stabilization: riprap, bulkhead and seawall consistent with Section 17.80.230;

I. Day care center;

J. Home occupation Type II, which satisfies the requirements of Section 17.54.045.

K. Assisted living facility.

L. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 8; Ord. 08-1 § 33; Ord. 97-6 § 15; Ord. 94-27 § 1; Ord. 90-10 § 1 (Appx. A § 17); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.070)(2))

17.20.040 Standards.

In an RM zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. Lot area shall be at least five thousand square feet, except that construction on lots less than five thousand square feet is subject to the standards of Section 17.82.020. The minimum lot size for a two-family dwelling shall be five thousand square feet. The density of limited triplexes shall be in conformance with Section 17.90.090. The density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77. The maximum density of motels and assisted living facilities shall be one unit per one thousand square feet of site area. The density of a motel project that includes motel units and dwelling units, other than a manager's unit, shall be cumulative. Example: a three unit motel in conjunction with a three-unit multifamily dwelling requires ten thousand square feet for the multifamily dwelling and three thousand square feet for the motel units..

B. Lot Dimensions.

1. Lot Width. Lot width shall be at least forty feet.

2. Lot Depth. Lot depth shall be at least eighty feet.

3. Front Yard. A front yard shall be at least fifteen feet.

4. Side Yard. A side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet.

5. Rear Yard. A rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

6. Motel Yard Requirements. Yard requirements shall not apply to motels or hotels, except as to yards abutting the ocean shore and clear vision area requirements.

7. Yard Abutting the Ocean Shore. For lots abutting the ocean shore any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A)(6), Oceanfront setback.

C. Lot Coverage. The lot coverage for a single-family dwelling, modular home or duplex shall not exceed fifty percent.

D. Floor Area Ratio. The floor area ratio for a single-family dwelling, modular home or duplex shall not exceed 0.6.

E. Building Height. Maximum height of a structure is twenty-eight feet, measured as the vertical distance from the average elevation of exiting grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed thirty-two feet. Pitched roofs are considered those with a 5-12 pitch or greater.

F. Signs. As allowed by Chapter 17.56.

G. Parking. As required by Section 17.78.020.

H. Design Review. All uses except single-family dwellings and their accessory structures are subject to the provisions of Chapter 17.44.

I. Geologic or Soils Engineering Study. As required by Chapter 17.50.

J. Outdoor Merchandising. As allowed by Section 17.90.150.

K. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 §§ 34—36; Ord. 06-10 § 10; Ord. 06-3 § 14; Ord. 94-08 § 8; Ord. 93-3 § 7; Ord. 92-11 §§ 35—37; Ord. 90-3 § 8; Ord. 89-3 § 1(part); Ord. 79-4 § 1 (3.070)(3))

Chapter 17.22

LIMITED COMMERCIAL (C1) ZONE

Sections:

17.22.010	**Purpose.**
17.22.020	**Uses permitted outright.**
17.22.030	**Conditional uses permitted.**
17.22.040	**Prohibited uses.**
17.22.050	**Standards.**

17.22.010 Purpose.

The purpose of the limited commercial zone is to provide an area in which primary retail uses may locate in the business areas of the city. Uses which do not require prime locations or which generate less traffic are generally to be located in the general commercial zone. In a C1 zone, the regulations set out in Sections 17.22.020 through 17.22.050 apply. (Ord. 79-4 § 1 (3.080)(part))

17.22.020 Uses permitted outright.

In a C 1 zone the following uses and their accessory uses are permitted outright:

A. Retail trade establishment, such as a food store, drug store, gift shop, variety or appliance store;

B. Repair and maintenance service of the type of goods to be found in the above permitted retail trade establishment, provided such service is performed within an enclosed building;

C. Arts and crafts gallery and studio;

D. Business or professional office;

E. Garden store;

F. Financial institution;

G. Eating and drinking establishment, except those prohibited by Section 17.22.040;

H. Personal business service, including, but not limited to barber shop, tailoring, printing, laundry and dry cleaning, or other service establishment;

I. Theater, but not including a drive-in;

J. Wholesale business in conjunction with a retail trade establishment on the same premises;

K. A residential use in conjunction with a permitted use where the residential use does not exceed fifty percent of the building's floor area;

L. Publicly owned park or recreation area; M. Utility lines necessary for public service;

N. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year;

O. Family day care center, day care center or adult day care center;

P. Accessory dwelling which satisfies the requirements of Section 17.54.080;

Q. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 15; Ord. 95-8 § 11; Ord. 94-06 § 1; Ord. 90-11A § 1 (Appx. A § 10); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (3.080)(1))

17.22.030 Conditional uses permitted.

In a C1 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. Cabinet, sheet metal, plumbing, carpenter or similar craft or trade shop;

B. Gasoline service station;

C. Government structure or use other than a park, including public parking;

D. Building materials supply sales;

E. Plant nursery;

F. Church or community meeting hall;

G. Custom manufacturing of goods for retail sale on the premises;

H. Structural shoreline stabilization: riprap, bulkhead or seawall consistent with Section 17.80.230;

I. Single-family dwelling, modular housing and manufactured home meeting the standards of Section 17.68.020;

J. A two-family dwelling;

K. Multifamily dwelling;

L. Residential home or residential facility;

M. Limited manufacturing.

N. Assisted living facility.

O. Community garden, which satisfies the requirements of Section 17.80.155.
(Ord. 09-4 § 9; Ord. 08-1 § 37; Ord. 98-17 § 2; Ord. 97-13 § 2; Ord. 94-5 § 8, Ord. 92-12 § 2; Ord. 92-11 § 38; Ord. 90-10 § 1(Appx. A § 18); Ord. 89-3 § 1 (part); Ord. 85-3 § 4: Ord. 79-4 § 1 (3.080)(2))

17.22.040 Prohibited uses.

In a C1 zone the following uses are prohibited:

A. Amusement arcade;

B. Drive-in restaurant, formula food restaurant, or mobile food vending wagon;

C. Other drive-in facilities such as a car wash;

D. Private parking lot. (Ord. 97-13 § 3; Ord. 94-06 § 2: Ord. 88-12 § 2: Ord. 79-4 § 1 (3.080)(2a))

17.22.050 Standards.

In a C1 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. None, except that the density of multifamily dwellings shall be five thousand square feet for the first unit of the multifamily dwelling plus two thousand five hundred square feet for each additional unit, except that there is no density standard for multifamily dwellings used for long-term rental purposes (thirty days or more) and where a deed restriction is recorded preventing the multifamily dwelling from conversion to condominium use, or similar individual ownership arrangement, or use as a short-term rental pursuant to Chapter 17.77; and the maximum density of assisted living facilities shall be one residential unit per one thousand square feet of site area.

B. Lot Dimension.

1. Lot Width and Depth. None.

2. Yards. None, except where a lot is adjacent to an R1, R2, R3, or MP zone, the same yard as in the abutting residential zone shall apply.

3. Yard Abutting the Ocean Shore. For all lots abutting the ocean shore any yard abutting the ocean shore shall conform to the requirements of Section 17.42.050(A) (6), Oceanfront setback.

C. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

D. Signs. As allowed by Chapter 17.56.

E. Parking. As required by Section 17.78.020. The required off-street parking spaces can be provided anywhere within the downtown commercial district, as identified in Figure 1 (at the end of this chapter).

F. Design Review. Design review requirements of Chapter 17.44 shall be met.

G. Geologic or Soils Engineering Study. As required by Chapter 17.50.

H. Outdoor Merchandising. As allowed by Section 17.90.150.

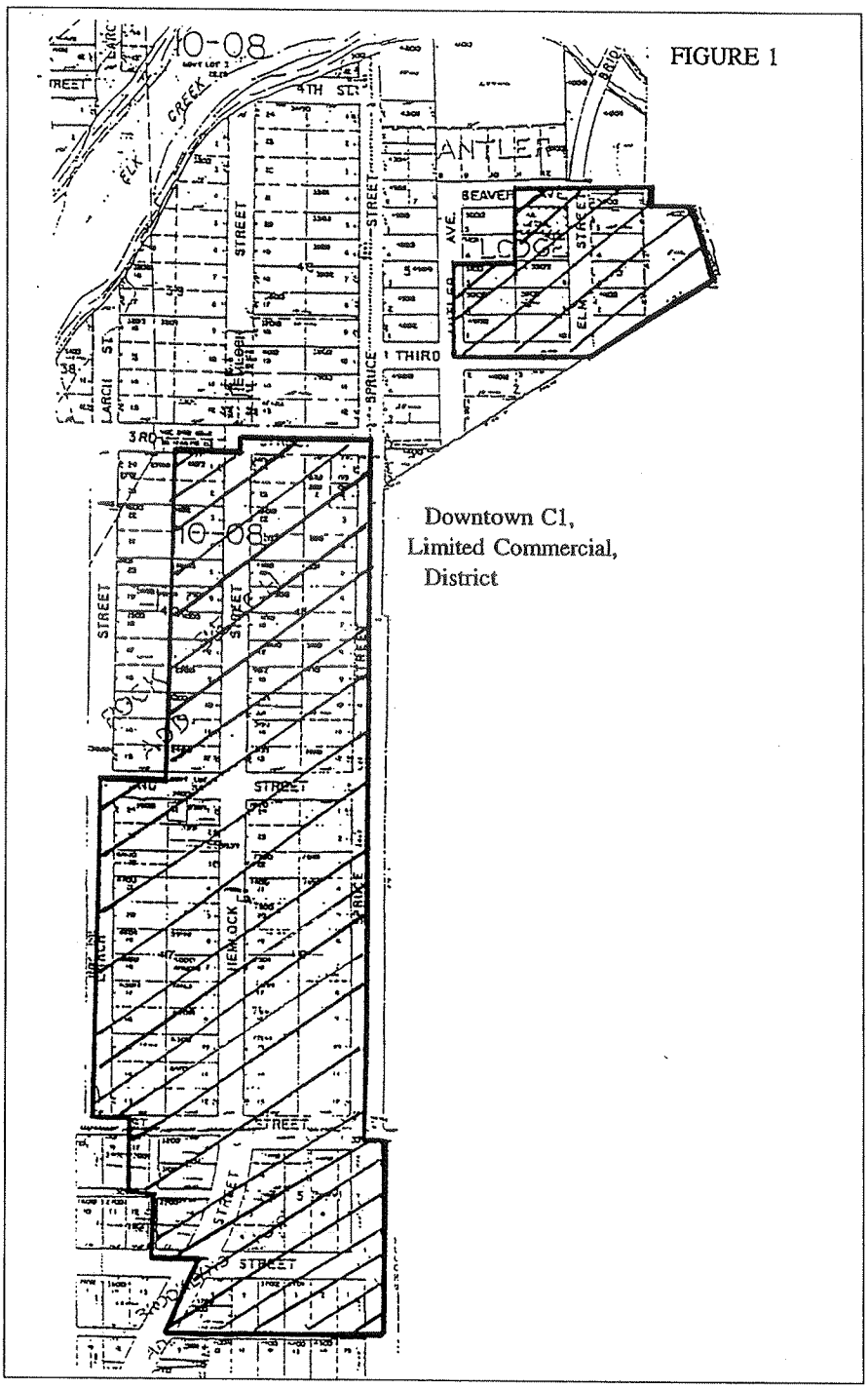
I. A minimum landscaping border of three feet shall be provided between the sidewalk and the frontage of all buildings facing the street. The planning commission may grant exceptions to this standard for doors and entries to buildings or where a combination of seating and landscaping is provided. Such landscaping may be part of the required landscaping specified in Section 17.44.120.

J. Floor Area Ratio. The floor area ratio for buildings located in the downtown commercial district, as identified in Figure 1 (at the end of this chapter) shall not exceed .7, except that buildings existing as of June 1, 1995, which exceed a floor area ratio of .7, may be replaced with a building(s) with a

floor area ratio equivalent to that which existed on June 1, 1995.

K. Vehicular Access. In the downtown commercial district, as identified in Figure 1 (at the end of this chapter), no new vehicular access onto Hemlock Street shall be permitted. Vehicular access which existed as of July 6, 1995 may continue to be utilized, including modifications thereto.

L. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 § 38; Ord. 06-3 § 16; Ord. 04-11 §§ 1—4; Ord. 95-7 § 1; Ord. 93-24 § 1; Ord. 92-11 §§ 39, 40; Ord. 90-3 § 9; Ord. 89-3 § 1 (part); Ord. 87-16 § 1: Ord. 87-13 §§ 1, 2; Ord. 79-4 § 1 (3.080)(3))


10-08
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STREET
Downtown C1,
Limited Commercial,
District

FIGURE 1

Chapter 17.24

GENERAL COMMERCIAL (C2) ZONE

Sections:

17.24.010	Purpose.
17.24.020	Uses permitted outright.
17.24.030	Conditional uses permitted.
17.24.040	Prohibited uses.
17.24.050	Standards.

17.24.010 Purpose.

The purpose of the general commercial C2 zone is to provide an area for more intensive types of commercial uses, other than retail establishments, which may be incompatible with the uses in the limited commercial zone. In a C2 zone the regulations set out in Sections 17.24.020 through 17.24.050 apply. (Ord. 79-4 § 1 (3.090) (part))

17.24.020 Uses permitted outright.

In a C2 zone the following uses and their accessory uses are permitted outright:

A. Building materials supply sales;

B. Plant nurseries;

C. Government buildings and maintenance shops;

D. Warehouses or storage establishments;

E. Boat building, cabinet or carpentry shops, contractor's shops, machine shops, vehicle repair or storage;

F. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued but not to exceed one year;

G. Business office or professional office, up to ten percent of the area of a mixed use development;

H. A residential use in conjunction with a permitted use where the residential use does not exceed fifty percent of the building's floor area;

I. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 17; Ord. 05-08 § 1; Ord. 99-2 § 1; Ord. 90-11A § (Appx. A § 11); Ord. 79-4 § 1 (3.090)(1))

17.24.030 Conditional uses permitted.

In a C2 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. Animal hospitals or kennels;

B. Enclosed recreation uses;

C. Utility substations;

D. Limited manufacturing.

E. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 10; Ord. 98-17 § 3; Ord. 79-4 § 1 (3.090)(2))

17.24.040 Prohibited uses.

In a C2 zone the following uses are prohibited:

A. Retail uses that are oriented to or dependent upon highway traffic for business

including, but not limited to, gas stations, drive-in restaurants and similar uses;

B. Amusement arcade. (Ord. 88-12 § 3: Ord. 79-4 § 1 (3.090)(3))

17.24.050 Standards.

In a C2 zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. None.

B. Lot Dimensions.

1. Lot Width and Depth. None;

2. Yards. None, except where adjacent to another zone, a minimum yard of twenty-five feet shall be provided; and where adjacent to a public right-of-way, a minimum yard of ten feet shall be provided.

C. Building Height. Maximum height of a structure is twenty-eight feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed thirty-six feet. Pitched roofs are considered those with a 5-12 pitch or greater.

D. Traffic. Traffic shall not be diverted directly onto the Highway 101 interchange.

E. Signs. As allowed by Chapter 17.56.

F. Parking. As required by Section 17.78.020.

G. Design Review. Design review requirements of Chapter 17.44 shall be met.

H. Geologic or Soils Engineering Study. As required by Chapter 17.50.

I. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 06-3 § 18; Ord. 92-11 §§ 41, 42; Ord. 90-3 § 10; Ord. 79-4 § 1 (3.090)(4))

Chapter 17.26

MANUFACTURED DWELLING AND RECREATIONAL VEHICLE PARK (MP) ZONE

Sections:

17.26.010 Purpose.
17.26.020 Uses permitted outright.
17.26.030 Conditional uses permitted.
17.26.040 Standards.

17.26.010 Purpose.

The purpose of the MP zone is to provide for lower cost housing in the form of manufactured dwellings in manufactured dwelling parks and on individual lots, recreational vehicle parks, accessory uses and campgrounds. (Ord. 90-10 § 1(Appx. A § 20): Ord. 79-4 § 1 (3.100)(part))

17.26.020 Uses permitted outright.

The following uses are permitted outright in an MP zone:

A. Recreational vehicle park, including the following accessory uses—grocery store, gift shop and snack bar where the total area of these uses does not exceed eight hundred square feet, meeting and multi-use rooms whose total area does not exceed thirty-five square feet per each approved recreational vehicle space, laundry, restrooms, and recreational facilities—where these accessory uses are intended to provide services for the guests of the recreational vehicle park, subject to the standards of Section 17.80.210;

B. Manufactured dwelling park, including the following accessory uses—meeting and multi-use rooms and recreational facilities intended to serve residents of the manufactured dwelling park, subject to the standards of Section 17.80.180;

C. Public park or publicly owned recreation area and their accessory uses;

D. Utility lines necessary for public service;

E. Manufactured dwelling on an individual lot and their accessory uses;

F. A manufactured dwelling or recreational vehicle not exceeding three hundred square feet in area used temporarily during the construction period of a permitted use for which a building permit has been issued, but not to exceed one year. (Ord. 06-8 § 2: Ord. 06-3 § 19; Ord. 90-11A § 1 (Appx. A § 12); Ord. 90-10 § 1 (Appx. A § 21); Ord. 79-4 § 1 (3.100)(1))

17.26.030 Conditional uses permitted.

In an MP zone the following uses are permitted subject to the provisions of Chapter 17.80:

A. Meeting and multi-use rooms, in conjunction with a recreational vehicle park, whose total area exceeds thirty-five square feet per each approved recreational vehicle space in the recreational vehicle park;

B. Grocery store, gift shop and snack bar in conjunction with a recreational vehicle park, where the total area of these uses exceeds eight hundred square feet;

C. Other uses accessory to a recreational vehicle park not specifically listed in Section 17.26.020A;

D. Other uses accessory to a manufactured dwelling park not specifically listed in Section 17.26.020B;

E. Campgrounds and their accessory uses;

F. Structural shoreline stabilization: rip-rap, bulkhead or seawall consistent with Section 17.80.230.

G. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 11; Ord. 06-8 § 3: Ord. 90-10 § 1 (Appx. A § 22); Ord. 79-4 § 1 (3.100)(2))

17.26.040 Standards.

In an MP zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Lot Size. A manufactured dwelling on an individual lot shall have a minimum lot size of five thousand square feet. A manufactured dwelling placed in a manufactured dwelling park shall have a lot size in conformance with Section 17.80.180. Recreational vehicles placed in a recreational vehicle park shall have a lot size in conformance with Chapter 17.80.210.

B. Lot Dimensions.

1. Manufactured dwellings on an individual lot shall have a minimum lot width of forty feet and a minimum lot depth of eighty feet. The front yard shall be at least fifteen feet. The side yard shall be at least five feet, except on a corner or through lot the minimum side yard from the street shall be fifteen feet. The rear yard shall be at least fifteen feet, except on a corner or through lot it shall be a minimum of five feet, except where a rear lot line abuts a street, it shall be a minimum of fifteen feet.

2. Manufactured dwellings placed in a manufactured dwelling park shall meet the lot dimension standards of Section 17.80.180.

3. Recreation vehicles placed in a recreation park shall meet the lot dimension standards of Chapter 17.80.2 10.

C. Lot Coverage and Floor Area Ratio. The lot coverage for a manufactured dwelling on an individual lot shall not exceed fifty percent. The floor area ratio for a manufactured dwelling on an individual lot shall not exceed .6.

D. Building Height. Maximum height of a structure is twenty-four feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed twenty-eight feet. Pitched roofs are considered those with a 5-12 pitch or greater.

E. Manufactured Dwellings. Manufactured dwellings shall be located in accordance with the requirements of Chapter 17.68.

F. Signs. As allowed by Chapter 17.56.

G. Parking. As required by Section 17.78.020.

H. Design Review. All uses except manufactured dwellings and recreational vehicles and their accessory structures are subject to design review requirements of Chapter 17.44.

I. Geologic or Soils Engineering Study. As required by Chapter 17.50.

J. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursu-

ant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 08-1 § 39; Ord. 06-3 § 20; Ord. 93-3 § 8; Ord. 92-11 § 43; Ord. 90-3 § 11; Ord. 90-10 § 1 (Appx. A § 23); Ord. 79-4 § 1 (3.100)(3))

Chapter 17.28

OPEN SPACE/RECREATION (OSR) ZONE

Sections:

17.28.010 Purpose.
17.28.020 Uses permitted outright.
17.28.030 Conditional uses permitted.
17.28.040 Standards.

17.28.010 Purpose.

The purpose of the OSR zone is to provide an area of low intensity open space or recreation use in which the natural features of the land are retained to the maximum extent possible. (Ord. 79-4 § 1 (3.110) (part))

17.28.020 Uses permitted outright.

In an OSR zone the following uses are permitted outright:

A. Park or publicly owned passive recreation area;

B. Utility lines necessary for public service;

C. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 21; Ord. 79-4 § 1 (3.110) (1))

17.28.030 Conditional uses permitted.

In an OSR zone the following uses and their accessory uses are permitted subject to the provisions of Chapter 17.80:

A. Privately owned campgrounds;

B. Recreation vehicle parks;

C. Organized camps;

D. Churches or meeting halls;

E. Forest management.

F. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 12; Ord. 79-4 § 1 (3.110) (2))

17.28.040 Standards.

In an OSR zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. The standards of the Oregon State Health Division apply to campgrounds;

B. All uses shall be evaluated under Chapter 17.44;

C. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 06-3 § 22; Ord. 90-3 § 12; Ord. 79-4 § 1 (3.110) (3))

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Chapter 17.30

ESTUARY (E) ZONE

Sections:

17.30.010	**Purpose.**
17.30.020	**Uses permitted outright.**
17.30.030	**Conditional uses permitted.**
17.30.040	**Additional development standards—Procedural requirements.**

17.30.010 Purpose.

The purpose of the estuary zone is to:

A. Assure the protection of fish and wildlife habitats;

B. Maintain the biological productivity within the estuary; and

C. Provide for low-intensity uses that do not require major alterations of the estuary. The Ecola Creek Estuary is defined to include: estuarine water; tidelands; tidal marshes (wetlands from lower high water (LHW) inland to the line of nonaquatic vegetation); and submerged lands. In areas where there are no tidelands or tidal marshes, the estuary extends to mean higher high water. The estuary extends upstream to the head of tidewater. Site specific delineations may be necessary to determine the exact location of the E zone boundary. Site specific delineations shall be performed by qualified individuals using a method acceptable to the U.S. Army Corps of Engineers and the Oregon Division of State Lands. (Ord. 95-21 § 1 (part): Ord. 87-15 §3, 1987; Ord. 86-10 § 2 (part): Ord. 79-4 § 1 (3.120) (part))

17.30.020 Uses permitted outright.

In the estuary zone, the following uses and activities shall be permitted subject to the requirements of Section 17.30.040:

A. Passive restoration measure;

B. Vegetative shoreline stabilization;

C. Research and education observation;

D. Emergency repair to existing dikes, subject to state and federal requirements;

E. Temporary dikes for emergency flood protection, limited to sixty days, subject to state and federal requirements;

F. Maintenance and repair of dikes;

G. Individual nonmotorized boating;

H. Claims for Compensation Under ORS 197.352. A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 23; Ord. 95-21 § 1 (part): Ord. 86-10 § 2 (part): Ord. 79-4 § 1 (3.120) (1))

17.30.030 Conditional uses permitted.

A. In the estuary zone, the following uses may be permitted when authorized in accordance with provisions of Chapter 17.80 and Section 17.30.040:

1. Submerged cable, sewer line, water line or other pipeline;

2. Maintenance and repair of structures or facilities existing as of October 7, 1977, which no longer meet the purposes of the estuary zone;

3. Active restoration of fish and wildlife habitat or water quality;

4. Estuarine enhancement;

5. Structural shoreline stabilization for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values and public facilities;

6. Bridge crossings.

B. In the estuary zone, the following uses may be permitted when authorized in accordance with the provisions of Chapter 17.80 and Section 17.30.040. It must also be determined if these uses and activities meet the resource capability of the estuary zone area in which the uses and activities occur, and if the uses and activities are consistent with the purpose of the estuary zone, as stated above. The procedures of Chapter 17.48, Resource Capability Determination, will be used to make this determination:

1. Structural shoreline stabilization for purposes other than allowed by subsection (A) (5) of this section;

2. Active restoration for purposes other than restoration of fish and wildlife habitat or water quality;

3. Stormwater and treated wastewater outfalls;

4. Bridge crossings support structures;

5. Dredging, fill or piling installation necessary for the installation of a conditional use listed above;

6. Temporary alterations;

7. Uses and activities permitted by an approved goal exception. (Ord. 95-21 § 1 (part): Ord. 86-10 § 2 (part): Ord. 79-4 § 1 (3.120) (2))

17.30.040 Additional development standards—Procedural requirements.

A. All uses shall satisfy applicable specific standards of Section 17.80.120. Where a proposal involves several uses, the standards applicable to each use shall be satisfied.

B. When a proposal includes several uses, the uses shall be reviewed in aggregate under the more stringent procedure. In addition, a proposal with several uses shall be reviewed in aggregate for consistency with the resource capability and purposes of the estuary zone, when a resource capability determination is required.

C. All applicable policies in the city comprehensive plan shall be adhered to.

D. Uses and activities that would potentially alter the estuarine ecosystem shall be preceded by a clear presentation of the impacts of the proposed alteration, subject to the requirements of Chapter 17.46, Impact Assessment.

E. No use shall be allowed in the estuary zone that would cause a major alteration of the estuary.

F. 1. Dredge and/or fill shall be allowed only:

a. If required for water-dependent uses that require an estuarine location, or if specifically allowed by this zone;

b. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

c. If no feasible upland locations exist;

d. If adverse impacts are minimized.

2. Other uses and activities which could alter the estuary shall only be allowed if the

requirements in subsections (F) (1) (b), (c) and (d) of this section are met.

G. Riparian vegetation shall be managed in accordance with the requirements of Section 17.43.050(L).

H. Claims for Compensation Under ORS 197.352. The standards of Sections 17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 06-3 § 24; Ord. 95-21 § 1 (part): Ord. 86-10 § 2 (part): Ord. 79-4 § 1 (3.120) (3))

Chapter 17.32

PARK MANAGEMENT (PK) ZONE

Sections:

17.32.010	**Purpose.**
17.32.020	**Uses permitted outright.**
17.32.030	**Conditional uses permitted.**
17.32.040	**Standards.**

17.32.010 Purpose.

The purpose of the park zone is to designate uses and standards for the maintenance and construction of public parks, subject to the policies of the comprehensive plan. (Ord. 79-4 § 1 (3.130) (part))

17.32.020 Uses permitted outright.

In a park zone the following uses and their accessory uses are permitted outright:

A. Management, general maintenance and daily operation of public park areas and facilities;

B. Replacement or repair of park facilities, roads and parking areas which have deteriorated or become nonfunctional through general use, fire, natural disasters, vandalism or obsolescence;

C. Minor betterment and improvements to park areas or facilities that enhances functionability or is necessary to accommodate existing public uses. (Ord. 79-4 § 1 (3.130) (1))

17.32.030 Conditional uses permitted.

The following uses may be permitted when authorized in accordance with the provisions of Chapter 17.80:

A. Construction of new facilities, including a community garden, or expansion of existing facilities designed to increase overall visitor capacity or which would have a significant land use impact.

B. Governmental or municipal structure. (Ord. 10-3 § 1; Ord. 09-4 § 13; Ord. 79-4 § 1 (3.130) (2))

17.32.040 Standards.

In a PK zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Construction, operation and maintenance of the city's parks shall be the responsibility of the city.

B. Construction, operation and maintenance of the state parks and waysides are under the authority of the State Parks and Recreation Department.

C. Normal operation, maintenance or replacement within state parks and waysides shall not fall under the standards of the city. (Ord. 92-11 § 44; Ord. 90-3 § 13; Ord. 79-4 § 1 (3.130) (3))

Chapter 17.34

OPEN SPACE (OS) ZONE

Sections:

17.34.010 Purpose.
17.34.020 Uses permitted outright.
17.34.030 Conditional uses permitted.
17.34.040 Standards.

17.34.010 Purpose.

The purpose of the open space zone is to preserve areas in their natural condition. (Ord. 79-4 § 1 (3.140) (part))

17.34.020 Uses permitted outright.

A specific individual use or structures approved pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352, where the standards of Section 17.90.180 are met. (Ord. 06-3 § 25: Ord. 79-4 § 1 (3.140) (1))

17.34.030 Conditional uses permitted.

The following conditional uses are permitted in the open space zone:

A. Trails, when authorized in accordance with the provisions of Chapter 17.80. Trails shall not be permitted on Chapman Point;

B. Wetland enhancement, including compensatory mitigation. (Ord. 01-1 § 1: Ord. 95-17 § 1; Ord. 79-4 § 1 (3.140) (2))

17.34.040 Standards.

Claims for Compensation Under ORS 197.352. The standards of Sections

17.08.040 (A) through (K), Standards, shall apply except as specifically modified pursuant to a development agreement created as part of the city's final action modifying, removing or not applying the city's land use regulation(s) on a demand for compensation under ORS 197.352. (Ord. 06-3 § 26)

Chapter 17.36

INSTITUTIONAL (IN) ZONE

Sections:

17.36.010	**Purpose.**
17.36.020	**Uses permitted outright.**
17.36.030	**Conditional uses permitted.**
17.36.040	**Standards.**

17.36.010 Purpose.

The purpose of the institutional zone is to provide for a range of governmental and municipal uses. (Ord. 98-3 § 3: Ord. 79-4 § 1 (3.150) (part))

17.36.020 Uses permitted outright.

In the institutional zone the following uses and their accessory uses are permitted outright:

A. Community buildings and areas which provide for educational or cultural activities;

B. Museums;

C. Reload facility. (Ord. 98-3 § 4: Ord. 79-4 § 1 (3.150) (1))

17.36.030 Conditional uses permitted.

The following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.80:

A. Public parking facility;

B. Sewage treatment facility;

C. Wood waste processing, not including a building;

D. Public restroom;

E. Recycling facility;

F. Public school;

G. Pump station or other similar facility;

H. Public park or publicly owned recreation area;

I. Public works shop or yard;

J. Dog impound facility.

K. Community garden, which satisfies the requirements of Section 17.80.155.

(Ord. 09-4 § 14; Ord. 98-8 § 2; Ord. 98-3 § 5: Ord. 79-4 § 1 (3.150) (2))

17.36.040 Standards.

In an IN zone, the following standards shall apply except as they may be modified through the design review process pursuant to Chapter 17.44:

A. Setbacks. Structures adjoining another zone or public right-of-way shall be set back twenty-five feet. No parking shall be permitted in this setback. Existing structures, at the time of adoption of the ordinance codified in this title, shall maintain their setbacks. Where parking occurs in the setback area, such use may continue.

B. Building Height. Maximum height of a structure is twenty-eight feet, measured as the vertical distance from the average elevation of existing grade to the highest point of a roof surface of a flat roof, to the top of a mansard roof or to the mean height level between the eaves and the ridge for a pitched roof. The ridge height of a pitched roof shall not exceed thirty-six feet.

C. Signs. As allowed by Chapter 17.56.

D. Parking. As allowed by Section 17.78.020.

E. Access. The provision of consolidated street access points shall be considered in site design. Street access should be located to minimize the impact on adjacent residential areas.

F. Design Review. All uses shall be evaluated under Chapter 17.44, Design Review Procedures and Criteria. (Ord. 90-3 § 14; Ord. 79-4 § 1 (3.150) (3))

Chapter 17.38

FLOOD HAZARD OVERLAY (FHO) ZONE

Sections:

17.38.010 Purpose.
17.38.020 Objectives.
17.38.030 Definitions.
17.38.040 General provisions—Applicability
17.38.050 Basis for establishment of special flood hazard areas.
17.38.060 Compliance.
17.38.070 Warning and disclaimer of liability.
17.38.080 Establishment of permit.
17.38.090 Duties and responsibilities.
17.38.100 Appeals and variances.
17.38.110 Flood hazard reduction—Generally.
17.38.120 Anchoring.
17.38.130 Construction materials and methods.
17.38.135 Crawlspace construction.
17.38.140 Utilities.
17.38.150 Subdivision proposals.
17.38.160 Review of building permits.
17.38.170 Specific standards.
17.38.180 Residential construction.
17.38.190 Nonresidential construction.
17.38.195 Critical facility.
17.38.200 Manufactured homes.
17.38.205 Recreational vehicles.
17.38.210 Coastal high-hazard areas.
17.38.220 Areas of shallow flooding.
17.38.230 Use restrictions.
17.38.240 Prohibited uses.
17.38.250 Penalties for noncompliance.
17.38.260 Abrogation and greater restrictions.

17.38.010 Purpose.

The purpose of the flood hazard overlay zone is to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (part))

17.38.020 Objectives.

In advancing these principles and the general purposes of the comprehensive plan and zoning ordinance, the specific objectives of this zone are as follows:

A. To combine with the present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the city;

B. To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;

C. To minimize the need for rescue and relief efforts associated with flooding;

D. To help maintain a stable tax base by providing for sound use and development in

flood-prone areas and to minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities located in flood hazard areas;

F. To ensure that potential home and business buyers are notified that property is in a flood area;

G. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (1))

17.38.030 Definitions.

The following words and phrases shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application. For the administration of the flood hazard overlay zone the following definitions shall be utilized, not those found in Chapter 17.04.

"Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

"Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depth range is from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

"Area of special flood hazard" means the land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "one-hundred-year flood." Designation on maps always includes the letters A or V.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Below grade crawl space" means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed four feet at any point.

"Breakaway walls" means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high-hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as Zone V1-V30, VE or V.

"Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

"Development" means any man-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging,

filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

"Elevated building" means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"Existing manufactured home park or subdivision" means one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Cannon Beach's floodplain management regulations (1978). The "construction of facilities" includes, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

"Expansion of an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at Section 17.38.060(B)(1).

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level (MSL)" means the average height of the sea for all stages of the tide.

"New construction" means the structures for which the "start of construction" com-

menced on or after the effective date of the ordinance codified in this section.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

"Recreation vehicle, highway ready" means a recreation vehicle that is on wheels or a jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

"Recreational vehicle" means a vehicle which is: (a) built on a single chassis; (b) four hundred square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reinforced Pier. At a minimum, a "reinforced pier" must have a footing adequate to support the weight of the manufactured home under saturated soil conditions. Concrete blocks may be used if vertical steel reinforcing rods are replaced in the hollows of the blocks and the hollows filled with concrete or high-strength mortar. Dry stacked concrete blocks do not constitute reinforced piers.

"Special flood hazard area (SFHA)" means areas subject to inundation from the waters of a one-hundred-year flood.

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include excavation for basement, footings, piers or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of a building.

"Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of its market value before the damage occurred.

"Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or

2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

a. Any project for improvements of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. (Ord. 10-10 §§ 1, 2; Ord. 08-6 §§ 1—5; Ord. 99-3 §§ 1, 2; Ord. 90-10 § 1 (Appx. A §§ 24, 25); Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (2))

17.38.040 General provisions—Applicability.

This chapter applies to all areas of special flood hazards (Flood Hazard Overlay Zone) in combination with present zoning requirements within the jurisdiction of the city. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (3) (a))

17.38.050 Basis for establishment of special flood hazard areas.

The areas of special flood hazard identified by the Federal Emergency Management Agency through a scientific and engineering report entitled "The Flood Insurance Study for Clatsop County, Oregon and Incorporated Areas," dated September 17, 2010, with accompanying Flood Insurance Rate Maps and Flood Boundary Maps and any revision thereto, is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the City Hall. (Ord. 10-10 § 3; Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(3)(b))

17.38.060 Compliance.

No structure or land shall be located, extended, converted or altered without full compliance with the terms of the ordinance codified in this chapter and other applicable regulations. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(3)(c))

17.38.070 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger

floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 87-4 § 1(part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1(3.160)(3)(d))

17.38.080 Establishment of permit.

A building/development permit is required in conformance with the provisions of this chapter. The permit is for all structures including manufactured homes, as set forth in Section 17.38.030, and for all developments including fill and other activities, also as defined in Section 17.38.030. Application for a building/development permit shall be made to the building official on forms furnished by him or her and shall specifically include the following information:

A. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

B. Elevation in relation to mean sea level to which any structure has been floodproofed;

C. Certification by a registered professional engineer or architect that the floodproofing method for any nonresidential structure meets the floodproofing criteria in Section 17.38.190;

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1(3.160)(4)(a))

17.38.090 Duties and responsibilities.

A. Duties of Building Official. The building official is designated to administer and implement the flood hazard overlay zone. The duties of the building official include, but are not limited to permit review:

1. Review of all development permits to determine that the permit requirements and conditions of this chapter have been satisfied;

2. Review all development permits to require that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.

B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 17.38.050, Basis for Establishment of Special Flood Hazard Areas, the building official shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source in order to administer Section 17.38.180, Residential Construction, and Section 17.38.190, Nonresidential Construction.

C. Information to be Obtained and Maintained. Where base flood elevation data is provided through the flood insurance study or required as in subsection B of this section, the building official shall:

1. Verify and record actual elevation (in relation to mean sea level) of the lowest

floor (including basement and below-grade crawlspaces) of all new or substantially improved structures and whether or not the structure contains a basement;

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Maintain the floodproofing certifications required in Section 17.38.080 C;

3. Maintain for public inspection all records pertaining to the provisions of this chapter;

4. In coastal high-hazard areas, obtain certification from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.

D. Alteration of Watercourses. The building official shall:

1. Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

2. Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. The building official shall make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in Section 17.38.100. (Ord. 10-10 §§ 4, 5; Ord. 08-6 §§ 6, 7; Ord. 90-10 § 1 (Appx. A § 26); Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1(3.160)(4)(b)—(f))

17.38.100 Appeals and variances.

A. Appeals. The planning commission, pursuant to Sections 17.88.140.A—17.88.160, shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision or determination in the enforcement or administration of this chapter.

1. In considering an appeal, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, where applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

2. The decision of the planning commission may be appealed pursuant to Section 17.88.140.

B. Variances. Variances shall be considered by the planning commission pursuant to the procedural requirements of Section 17.84.070.

1. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

2. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all variance criteria and otherwise complies with Section 17.38.120.

3. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the standards in Section 17.38.100(A)(1) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

4. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the variance criteria and standards of this section.

5. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

6. Variances shall be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all of the following criteria are met:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the

public, or conflict with existing local laws or ordinances; and

d. The variance is the minimum necessary, considering the flood hazard, to afford relief.

7. Upon consideration of the factors of Section 17.38.100(A)(1) and the purposes of this chapter, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

8. The action of the planning commission may be appealed pursuant to Sections 17.88.140—17.88.160.

C. The applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 08-6 §§ 8—12: Ord. 90-10 § 1 (Appx. A § 27); Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(4)(g))

17.38.110 Flood hazard reduction—Generally.

In the Flood Hazard Overlay Zone (FHO zone) the general provisions set out in Sections 17.38.120 through 17.38.160 are required. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(a))

17.38.120 Anchoring.

A. All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques). A certificate signed by a registered architect or engineer which certifies that the anchoring system is in conformance with FEMA regulations shall be submitted prior to final inspection approval. (Ord. 90-10 § 1 (Appx. A § 28); Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(a)(1))

17.38.130 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

C. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be elevated to one foot above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding. (Ord. 90-10 § 1 (Appx. A § 29); Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(a)(2))

17.38.135 Crawlspace construction.

A. Crawlspace Construction. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA

Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:*

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in subsection B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

2. The crawlspace is an enclosed area below the base flood elevation (BFE) and as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.

3. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

4. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

5. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

6. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

7. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

8. The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used. (Ord. 08-6 § 13)

17.38.140 Utilities.

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality. (Ord. 10-10 § 6; Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(a)(3))

17.38.150 Subdivision proposals.

A. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

B. All subdivision proposals shall be consistent with the need to minimize flood damage.

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damages.

D. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less). (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(a)(4))

17.38.160 Review of building permits.

Where elevation data is not available either through the flood insurance study or from another authoritative source (Section 17.38.090(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high-water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above the natural grade in these zones may result in higher insurance rates. (Ord. 10-10 § 7; Ord. 99-3 § 3: Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(a)(5))

17.38.170 Specific standards.

In all areas of special flood hazards (FHO zone) where base flood elevation data has been provided as set forth in Section 17.38.050, Basis for Establishing the Areas of Special Flood Hazard, or Section 17.38.090 (B), Use of Other Base Flood Data, the provisions in Sections 17.38.180 through 17.38.220 are required. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(b))

17.38.180 Residential construction.

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

B. The bottom of all openings shall be no higher than one foot above grade.

C. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 08-6 § 15: Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(b)(1))

17.38.190 Nonresidential construction.

A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated according to Table 2-1 the American Society of Civil Engineers, Flood Resistant Design and Construction Standard (ASCE 24); or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specification and plans. Such certifications shall be provided to the official as set forth in Section 17.38.090(C)(2)(b).

B. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 17.38.180.

C. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level). (Ord. 10-10 § 8; Ord. 08-6 § 16; Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (5)(b)(2))

17.38.195 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (one-hundred-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the five hundred-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 08-6 § 14)

17.38.200 Manufactured homes.

All manufactured homes to be placed or substantially improved within zones on the FIRM shall comply with the following:

A. The ground area reserved for the placement of a manufactured dwelling shall be a minimum of twelve inches above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of twelve inches above base flood elevation.

C. The manufactured dwelling shall be anchored to prevent flotation collapse and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

D. Electrical crossover connections shall be a minimum of twelve inches above the base flood elevation. (Ord. 10-10 § 9; Ord. 08-6 §§ 17, 18; Ord. 99-3 § 4: Ord. 90-10 § 1 (Appx. A § 30): Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(b)(3))

17.38.205 Recreational vehicles.

Recreational vehicles placed on sites within zone AE on the FIRM shall either:

A. Be on the site for fewer than one hundred eighty consecutive days;

B. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

C. Meet the requirements of Section 17.38.200 and the elevation and anchoring requirements for manufactured homes. (Ord. 10-10 § 10; Ord. 99-3 § 5: Ord. 90-10 § 1 (Appx. A § 31): Ord. 79-4 § 1 (3.160)(5)(b)(4))

17.38.210 Coastal high-hazard areas.

Coastal high-hazard areas (V zones) are located within the areas of special flood hazard established in Section 17.38.040. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions also apply:

A. 1. In all new construction and substantial improvements in VE zones shall be elevated on pilings and columns so that:

a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level, and

b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one hundred year mean recurrence interval);

2. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (A) (1) (a) and (A) (1) (b) of this section.

B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in VE zones and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.

C. All new construction shall be located landward of the reach of mean high tide.

D. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).

E. If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access or storage. Such space shall not be used for human habitation.

F. The use of fill for structural support of buildings is prohibited.

G. Manmade alteration of sand dunes which would increase potential flood damage is prohibited.

H. All manufactured homes to be placed or substantially improved within VE zones shall meet the standards of Section 17.38.210(A) through (G).

I. Recreational vehicles placed on sites within VE zones on the FIRM shall either:

1. Be on the site for fewer than one hundred eighty consecutive days;

2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the requirements of Section 17.38.210(A) through (G) and a permit, pursuant to Section 17.38.080, is obtained. (Ord. 10-10 §§ 11—14; Ord. 08-6 § 19; Ord. 993 § 6: Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (5)(c))

17.38.220 Areas of shallow flooding.

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified);

B. New construction and substantial improvement of nonresidential structures shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified), or

2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used compliance shall be certified by a registered professional engineer or architect;

C. Adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures. (Ord. 10-10 § 15; Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(5)(d))

17.38.230 Use restrictions.

Restrictions regarding height, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the flood hazard overlay zone area. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160) (6)(a))

17.38.240 Prohibited uses.

It is unlawful to erect, alter, maintain or establish in a flood hazard overlay zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Chapter 17.82. (Ord. 87-4 § 1 (part): Ord. 86-16 § 3 (part): Ord. 79-4 § 1 (3.160)(6)(b))

17.38.250 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) are subject to Chapter 17.94, Enforcement. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 08-6 § 20)

17.38.260 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 08-6 § 21)

Chapter 17.40

PLANNED DEVELOPMENT (PD) ZONE

Sections:

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17.40.090 Violation—Permit revocation.

17.40.010 Purpose.

A. It is the intent of this chapter to encourage appropriate and orderly development of tracts of land sufficiently large to allow comprehensive planning and to provide a degree of flexibility in the application of certain regulations which cannot be obtained through traditional lot-by-lot subdivision. In this manner, environmental amenities may be enhanced by promoting a harmonious variety of uses; the economy of shared services and facilities; compatibility of surrounding areas; and the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

B. Specifically, it is the purpose of this chapter to promote and encourage the flexibility of design in the placement and uses of buildings and open space, streets and off-street parking areas, and to more efficiently utilize the potential of sites characterized by special features of geography, topography, size or shape.

C. It is not the intention of this chapter to be a bypass of regular zoning provisions solely to allow increased densities, nor is it a means of maximizing densities on parcels of land which have unbuildable or unusable areas. (Ord. 79-4 § 1 (3.170)(part))

17.40.020 Standards and requirements—Generally.

A. Size.

1. Planned residential development may be established in residential zones on parcels of land which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of the comprehensive plan and this title. The site shall include not less than three acres of contiguous land, unless the planning commission finds that property of less than three acres is suitable by virtue of its unique character, topography or other natural features, or by virtue of its qualifying as an isolated problem area.

2. Where the development involves partitioning, subdivision or resubdivision, or condominium ownership of land and buildings, the requirements of the land division ordinance shall be adhered to concurrently.

B. Ownership.

1. The tract of land or tracts of land included in a proposed planned development must be in one ownership or control or the subject of a joint application

by the owners of all the property included. The holder of a written option to purchase shall be deemed the owner of such land for the purposes of this section.

2. Unless otherwise provided as a condition for approval of a planned development permit, the permittee may divide and transfer units of any development. The transferee shall use and maintain each such unit in strict conformance with the approved permit and development plan.

C. Professional Design.

1. The applicant for all proposed planned developments shall certify that the talents of the following professionals will be utilized in the planning process for development: (a) an architect licensed by the state, (b) a landscape architect licensed by the state, (c) a registered engineer and land surveyor licensed by the state. The planning commission may waive this requirement provided the applicant can show the equivalent and acceptable design talents have been utilized in the planning process.

2. One of the professional consultants chosen by the applicant from the above group shall be designated to be responsible for conferring with the city staff with respect to the concept and details of the plan.

3. The selection of the professional coordinator of the design team will not limit the owner or the developer in consulting with the city staff or the commission.

D. General Information. The planning process for development shall include:

1. Plot plan of land in area to be developed indicating location of adjacent streets and all private rights-of-way existing and proposed;

2. A legal boundary survey;

3. Existing and proposed finish grading of the property with all drainage features;

4. Location of all proposed structures, together with the usage to be contained therein and approximate location of all entrances thereto and height and gross floor area thereof;

5. Vehicular and pedestrian circulation features within the site and on adjacent streets and alleys;

6. The extent, location, arrangement and proposed improvements of all off-street parking and loading facilities;

7. The extent, location, arrangement and proposed improvements of all open space, landscaping, fences and walls;

8. Architectural drawings and sketches demonstrating the planning and character of the proposed development;

9. The number of units proposed;

10. Contour lines at two-foot intervals.

E. Permitted Buildings and Uses. The following buildings and uses may be permitted as provided in this subsection. Buildings and uses may be permitted either singly or in combination, provided the overall density of the planned development does not exceed the density of the parent zone:

1. Single-family dwellings including detached, attached or semi-attached units, row houses, atrium or patio houses; provided each has its own separate plot;

2. Duplexes;

3. Multiple-family dwellings;
4. Accessory buildings and uses;
5. Condominiums;
6. Buildings or uses listed as permitted outright or conditionally in the parent zone in which the planned development is located. (Ord. 79-4 § 1 (3.170)(1))

17.40.030 Development standards.

In addition to, or as a greater requirement to the regulations normally found in the zone, the following guidelines and requirements apply to all developments for which a planned development permit is required:

A. Outdoor Living Area Guidelines. In all residential developments, forty percent of the total area should be devoted to outdoor living area. Of this area, twenty-five percent of the outdoor living area may be utilized privately by individual owners or users of the planned development; however, seventy-five percent of this area should be common or shared outdoor living area.

B. Height Guidelines. The same restrictions shall prevail as permitted outright in the zone in which such development occurs, except that the commission may further limit heights:

1. Around the site boundaries; and/or
2. To protect scenic vistas from encroachments.

C. Underground Utilities. In any development which is primarily designed for or occupied by dwellings, all electric and telephone facilities, fire alarm conduits, street light wiring and other wiring conduits and similar facilities shall be placed underground by the developer.

D. Density Guidelines.

1. The density of a planned development shall not exceed the density of the parent zone, except as more restrictive regulations may be prescribed as a condition of a planned development permit. When calculating density, the net area is used — the total area excluding street dedications.

2. Areas of public or semi-public uses (not public ownership) may be included in calculating allowable density.

E. Distribution of Facilities Without Reference to Lot Lines. Individual buildings, accessory buildings, off-street parking and loading facilities, open space and landscaping and screening may be located without reference to lot lines, save the boundary lines of the development, except that required parking spaces serving residential uses shall be located within two hundred feet of the building containing the living units served.

F. Waiver of Reduction of Yard and Other Dimensional Requirements. Except as otherwise provided, the minimum lot area, width and frontage, height and yard requirements otherwise applying in the zone shall not dictate the strict guidelines for development of the planned development, but shall serve to inform the designers of the importance of developing a project that will be in harmony with the character of the surrounding neighborhood.

G. Dedication and Maintenance of Facilities. The planning commission may, as a condition of approval for any development for which a planned development permit is required, require that portions of the tract or tracts under consideration be set aside, improved, conveyed or dedicated for the following uses:

1. Recreation Facilities. The commission or council, as the case may be, may require that suitable area for parks or playgrounds be set aside, improved or perma-

nently reserved for the owners, residents, employees or patrons of the development.

2. Outdoor Living Area. Whenever private outdoor living area is provided, the commission or council shall require that an association of owners or tenants be created into a nonprofit corporation under the laws of the State of Oregon, which shall adopt such articles of incorporation and by-laws and adopt and impose such declaration of covenants and restrictions on such outdoor living areas and/or common areas that are acceptable to the commission. Such association shall be formed and continued for the purpose of maintaining such outdoor living area. Such an association, if required, may undertake other functions. It shall be created in such a manner that owners of property shall automatically be members and shall be subject to assessments levied to maintain such outdoor living area for the purposes intended. The period of existence of such association shall be not less than twenty years, and it shall continue thereafter until a majority vote of the members shall terminate it.

3. Streets. The commission or council may require that the right-of-way width of such other streets necessary to the proper development of adjacent properties be dedicated to the city.

4. Easements. Easements necessary to the orderly extension of public utilities may be required as a condition of approval. (Ord. 79-4 § 1 (3.170)(2))

17.40.040 Planned development procedures.

There shall be a three-stage review process for planned developments consisting of pre-application (stage one), preliminary approval (stage two) and final approval (stage three).

A. Pre-Application (Stage One). The owner or his authorized agent shall submit to the planning department the following information:

1. A schematic drawing, drawn to a minimum scale of one inch equals one hundred feet, showing the general relationship contemplated among all public and private uses and existing physical features;

2. A written statement setting forth the source of water supply, method of sewage disposal, means of drainage, dwelling types, nonresidential uses, lot layout, public and private access, height of structures, lighting, landscaped areas and provisions for maintenance of landscaped areas, areas to be devoted to various uses and housing densities per net acre and per gross acre contemplated by the applicant.

The developer and the city staff shall meet together and determine whether the requirements of this chapter have been complied with. If there is disagreement on this issue, the applicant, by request, or the staff may take this pre-application information to the commission for their determination of whether this site qualifies for the contemplated planned development. The professional coordinator shall be responsible for presenting the developer's plan in all of the broad professional aspects to the planning department. If the staff and the applicant reach a satisfactory agreement, the applicant may proceed to prepare the data for stage two, preliminary approval.

B. Preliminary Approval (Stage Two).

1. Applications for planned developments, preliminary approval, shall be made by the owner of all affected property or his authorized agent, and shall be filed on a

form prescribed by the city. Applications shall be accompanied by a fee prescribed by the city and accompanied by the following information:

a. Four copies of a preliminary development plan of the entire development, showing streets, driveways, off-street parking and loading areas; location and approximate dimensions of structures, including activities and number of living units; major landscaping features; relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets and open space. Such development plan shall include maps and information on the surrounding area within four hundred feet of the development. A boundary survey or a certified boundary description by a registered surveyor, plus contour information, shall also be submitted.

The elevation of all points used to determine contours shall be indicated on the preliminary plan and such points shall be given to true elevation above mean sea level as determined by the city engineer. The base data used shall be clearly indicated and shall be compatible with city datum, if bench marks are not adjacent. Two-foot contour intervals are required.

All elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact;

b. A tabulation of the land area to be devoted to open space, streets or other uses, and a calculation of the average residential density per net acre;

c. A stage development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion;

d. If it is proposed that the final development plan will be executed in stages, a schedule thereof will be required.

2. An application for planned development permit shall be considered by the planning commission. A public hearing as specified in Chapter 17.88 shall be held on each such application. After such hearing, the commission shall determine whether the proposal conforms to the permit criteria set forth in Section 17.40.050, and to the planned development regulations, and may approve or disapprove in concept the application and the accompanying preliminary development plan, or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations. In doing so, the commission may, in its discretion, authorize submission of the final development plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the preliminary development plan and stage development schedule. Should a decision not be rendered within sixty days after filing, the application and preliminary development plan shall be deemed approved in concept unless such time has been extended by the commission.

C. Final Approval (Stage Three).

1. Within one year after concept approval or modified approval of a preliminary development plan, the applicant shall file with the planning department a final plan for the entire development or, when submission in stages has been authorized, for the first unit of development. The final plan shall conform in all major respects

with the approved preliminary development plan. The final plan shall include all information included in the preliminary plan, plus the following: the location of water, sewerage and drainage facilities; detailed building and landscaping plans and elevations; the character and location of signs; plans for street improvements and grading or earth moving plans. The final plan shall be sufficiently detailed to indicate fully the ultimate operation and appearance of the development. Copies of the legal documents required by the commission for dedication or reservation of public facilities, or for the creation of a nonprofit homes association, shall also be submitted.

2. Within thirty days after the filing of the final development plan, the commission shall forward such development plan and the original application to the public works department for review of public improvements, including streets, sewers and drainage. The commission shall not act on a development plan until it has first received a report from the public works department, or until more than thirty days have elapsed since the plan and application were sent to the public works department, whichever is the shorter period.

3. Upon receipt of the final development plan the planning commission shall examine such plan and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved planned development permit, or require such changes in the proposed development, or impose such conditions of approval as are in its judgment necessary to ensure conformity to the applicable criteria and standards. In so doing, the commission may permit the applicant to revise the plan within thirty days.

4. After final concept approval by the planning commission, the planned development application will be sent to the city council for consideration for final approval. A public hearing as specified in Chapter 17.88 shall be held on each such application. After such hearing, the city council shall determine whether the proposal conforms to the permit criteria set forth in Section 17.40.050 and to the planned development regulations, and may approve or disapprove the application and the accompanying development plan or require changes or impose conditions of approval as are in its judgment necessary to ensure conformity to such criteria and regulations. The decision of the city council shall be final. (Ord. 92-11 §§ 45, 46; Ord. 79-4 § 1 (3.170)(3))

17.40.050 Permit criteria.

A planned development permit may be granted by the planning commission only if it is found that the development conforms to all the following criteria, as well as to the planned development regulations:

A. That the location, design, size and uses are consistent with the comprehensive plan, development map or ordinance adopted by the council;

B. That the location, design and size are such that the development can be well integrated with its surroundings, and in the case of a departure in character from surrounding uses, that the location and design will adequately reduce the impact of the development;

C. That the location, design and size and uses are such that traffic generated by the development, except in single-family density, can be accommodated safely and without

congestion on existing or planned arterial or collector streets and will, in the case of commercial developments, avoid traversing local streets;

D. That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or planned facilities and services;

E. That the location, design, size and uses will result in an attractive, healthful, efficient and stable environment for living, shopping or working. (Ord. 79-4 § 1 (3.170)(4))

17.40.060 Mapping.

Whenever a planned development permit has been granted, and so long as the permit is in effect, the boundary of the planned development shall be indicated on the land use and zoning map of the city as a sub-district "PD." (Ord. 92-11 § 47; Ord. 79-4 § 1 (3.170)(5))

17.40.070 Limitation on resubmission.

Whenever an application for a planned development permit has been denied, no application for the same plan or any portion thereof shall be filed by the same applicant within six months after the date of denial. (Ord. 79-4 § 1 (3.170)(6))

17.40.080 Adherence to approved plan—Modifications.

A. The applicant shall agree in writing to be bound, for himself and his successors in interest, by the conditions prescribed for approval of a development. The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location and design of all uses. Minor changes in an approved preliminary or final development plan may be approved by the code enforcement officer if such changes are consistent with the purposes and general character of the development plan. All other modifications, including extension or revisions of the stage development schedule, shall be processed in the same manner as the original application and shall be subject to the same procedural requirements.

B. A performance bond shall be required, in an amount to be determined by the planning commission, to ensure that a development proposal is completed as approved and within the time limits agreed to. (Ord. 79-4 § 1 (3.170)(7))

17.40.090 Violation—Permit revocation.

Failure to comply with the final development plan, any condition of approval prescribed under Section 17.40.040 or to comply with the stage development schedule, shall constitute a violation of this chapter. In this event, the city council may, after notice and hearing, revoke the planned development permit. (Ord. 79-4 § 1 (3.170)(8))

Chapter 17.42

OCEANFRONT MANAGEMENT OVERLAY (OM) ZONE*

Sections:

17.42.010	Purpose.
17.42.020	General provisions.
17.42.030	Uses and activities permitted.
17.42.040	Uses and activities prohibited.
17.42.050	General standards.
17.42.060	Specific standards.

* Prior ordinance history: Ords. 79-4, 86-10 and 88-13.

17.42.010 Purpose.

The intent of the oceanfront management overlay (OM) zone is to regulate uses and activities in the affected areas in order to: ensure that development is consistent with the natural limitations of the oceanshore; to ensure that identified recreational, aesthetic, wildlife habitat and other resources are protected; to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of beach and dune areas; and to reduce the hazards to property and human life resulting from both natural events and development activities. (Ord. 94-08 § 10 (part))

17.42.020 General provisions.

A. Zone Boundaries.

1. The OM zone includes the following areas: beaches; active dunes; foredunes, including active foredunes and conditionally stable foredunes which are subject to ocean undercutting and wave overtopping; conditionally stable dunes; interdune areas that are subject to ocean flooding; deflation plains; younger and older stabilized dunes; conditionally stable open sand areas; and lots abutting the oceanshore. The boundaries of the overlay zone shall be those shown on the map titled "Oceanfront Management Overlay Zone, City of Cannon Beach." If the city has reason to believe that a site, presently not covered by the OM zone, exhibits characteristics that warrant its inclusion in the OM zone, the city shall hire an appropriate expert to undertake a site investigation to determine whether the area contains one or more of the land forms which are contained in the OM zone. If, as the result of the site investigation, it is determined that the site includes land forms covered by the OM zone, the site shall be subject to the requirements of the OM zone.

2. The map titled "Active dune and conditionally stabilized dunes, Cannon Beach, May 1993" is adopted by reference and incorporated into this zone. This map shall form the basis for identifying what constitute active dunes and conditionally stable dunes.

B. Relationship to the Underlying Zone. Uses and activities within the OM zone are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this zone and the underlying zone conflict, the provisions of this zone shall apply.

C. Warning and Disclaimer of Liability. The degree of protection from the effects of erosion or accretion required by this section is considered reasonable for regulatory purposes. This does not imply that development permitted in the OM zone will be free from the effects of erosion or accretion. These

provisions shall not create a liability on the part of the city or any officer, employee, or official thereof, for any damages due to erosion or accretion that results from reliance on the provisions of this section or any administrative decision made thereunder. (Ord. 94-08 § 10 (part))

17.42.030 Uses and activities permitted.

A. For lots that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are permitted subject to provisions of Section 17.92.010, Development permits:

1. Remedial dune grading, subject to the provisions of Section 17.42.060(A)(4);

2. Foredune breaching, subject to the provisions of Section 17.42.060(A)(2);

3. Maintenance and repair of an existing shoreline stabilization structure, subject to the provisions of Section 17.80.230(K);

4. Maintenance and repair of existing streets, sewer or water lines, and drainage improvements other than storm water outfalls;

5. Private beach access improvements, including stairs, subject to the provisions of Section 17.42.060(A)(7);

6. Trimming of stabilizing vegetation, subject to the provisions of Section 17.42.060(A)(6).

7. Maintenance foredune grading, subject to the provisions of Section 17.42.060(11).

B. For lots that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.44, Design Review:

1. Public beach access improvements, including stairs, subject to the provisions of Section 17.42.060(A)(7);

2. Stormwater outfalls.

C. For lots that consist of the beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the following uses and activities are subject to the provision of Chapter 17.80, Conditional Uses:

1. Shoreline stabilization, subject to the provisions of Section 17.80.230;

2. Nonstructural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5);

3. Foredune grading, subject to the provisions of Section 17.42.060(A)(3).

D. For lots that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provisions of Section 17.92.010, Development permits:

1. Private beach access improvements, subject to the provisions of Section 17.42.060(A)(7);

2. Maintenance and repair to existing shoreline stabilization structure, subject to the provisions of Section 17.80.230(K);

3. Dune grading.

E. For lots that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provision of Chapter 17.44, Design Review:

1. Public beach access improvements, subject to the provisions of Section 17.42.060(A)(7);

2. Stormwater outfalls.

F. For lots that do not consist of a beach, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding: in addition to the uses permitted in the underlying zone, the following uses and activities are permitted subject to provision of Chapter 17.80, Conditional Uses:

1. Shoreline stabilization, subject to the provisions of Section 17.80.230;

2. Non-structural shoreline stabilization program, subject to the provisions of Section 17.42.060(A)(5). (Ord. 07-3 § 3; Ord. 94-08 § 10 (part))

17.42.040 Uses and activities prohibited.

A. Residential development and commercial and industrial buildings shall be prohibited on beaches, active dunes, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding. The location of these areas on a parcel of land shall be determined in accordance with Section 17.42.050(B)(3).

B. Removal of sand from the beach, active dunes, or conditionally stable dunes subject to wave overtopping or ocean undercutting.

C. Removal of stabilizing vegetation, except as part of a foredune grading plan provided for by Section 17.42.060(A)(3), or a nonstructural shoreline stabilization program provided for by Section 17.42.060(A)(5), or as provided for by Section 17.52.030. (Ord. 94-08 § 10 (part))

17.42.050 General standards.

A. The uses and activities permitted in all areas contained in the OM zone are subject to the following:

1. Flood Hazard Overlay Zone, Chapter 17.38;

2. Geologic hazard areas requirements, Chapter 17.50;

3. Maintenance of beach access in conformance with Section 17.90.030;

4. All construction proposed west of the Oregon Coordinate Line shall obtain permits as required by the Oregon Parks and Recreation Department;

5. All construction proposed west of the line of vegetation shall obtain permits as required under the Oregon Removal-Fill Law;

6. Oceanfront Setback. For all lots abutting the oceanshore, the ocean yard shall be determined by the oceanfront setback line.

a. The location of the oceanfront setback line for a given lot depends on the location of buildings on lots abutting the oceanshore in the vicinity of the proposed building site and upon the location and orientation of the Oregon Coordinate Line.

b. For the purpose of determining the oceanfront setback line, the term "building" refers to the residential or commercial structures on a lot. The term "building" does not include accessory structures.

c. The oceanfront setback line for a parcel is determined as follows:

i. Determine the affected buildings; the affected buildings are those located one hundred feet north and one hundred feet south of the parcel's side lot lines.

ii. Determine the setback from the Oregon Coordinate Line for each building identified in subsection (A)(6)(c)(i) of this section.

iii. Calculate the average of the setbacks of each of the buildings identified in subsection (A)(6)(c)(ii) of this section.

d. If there are no buildings identified by subsection (A)(6)(c)(i) of this section, then the oceanfront setback line shall be determined by buildings that are located two hundred feet north and two hundred feet south of the parcel's side lot lines.

e. Where a building identified by either subsection (A)(6)(c)(i) of this section or subsection (A)(6)(d) of this section extends beyond one hundred feet of the lot in question, only that portion of the building within one hundred feet of the lot in question is used to calculate the oceanfront setback.

f. The setback from the Oregon Coordinate Line is measured from the most oceanward point of a building which is thirty inches or higher above the grade at the point being measured. Projections into yards, which conform to Section 17.90.070, shall not be incorporated into the required measurements.

g. The oceanfront setback line shall be parallel with the Oregon Coordinate Line and measurements from buildings shall be perpendicular to the Oregon Coordinate Line.

h. The minimum ocean yard setback shall be fifteen feet.

i. Notwithstanding the above provisions, the building official may require a greater oceanfront setback where information in a geologic site investigation report indicates a greater setback is required to protect the building from erosion hazard.

j. As part of the approval of a subdivision, the city may approve the oceanfront setback for the lots contained in the subdivision. At the time of building construction, the oceanfront setback for such a lot shall be the setback established by the approved subdivision and not the oceanfront setback as it would be determined by subsections (A)(6)(a) through (i) of this section. Before granting a building permit, the building official shall receive assurance satisfactory to such official that the location of the oceanfront setback for said lot has been specified at the required location on the plat or has been incorporated into the deed restriction against the lot.

B. The uses and activities permitted in beach and dune areas contained in the OM zone are subject to the following additional standards:

1. For uses and activities located in beach and dune areas, other than older stabilized dunes, findings shall address the following:

a. The adverse effects the proposed development might have on the site and adjacent areas;

b. Temporary and permanent stabilization proposed and the planned maintenance of new and existing vegetation;

c. Methods for protecting the surrounding area from any adverse effects of the development; and

d. Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

2. For uses and activities located on beaches, active dunes, on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas that are subject to ocean flooding, findings shall address the following:

a. The standards of subsection (B)(1) of this section;

b. The development is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or is of minimal value; and

c. The development is designed to minimize adverse environmental effects.

3. Determination of Building Line. For residential or commercial buildings proposed for lots that may consist of the beach, an active dune, or other foredunes which are conditionally stable and that are subject to wave overtopping or ocean undercutting, or interdune areas that are subject to ocean flooding the geologic site investigation required by Chapter 17.50 shall include a determination of where these features are located on the lot. The map titled "Active and conditionally stable dunes, Cannon Beach, May 1993" shall be used as the basis for locating the active dune area. The "Flood Insurance Study, City of Cannon Beach, Oregon, March 1978" and the "Active and conditionally stable dunes, Cannon Beach, May 1993" shall be used as the basis for locating the conditionally stable foredunes that are subject to wave overtopping and interdune areas subject to ocean flooding. Conditionally stable foredunes subject to ocean undercutting shall be determined as part of the site investigation report.

4. Conformance with the dune construction standards of Chapter 17.52. (Ord. 95-1 § 1; Ord. 94-08 § 10 (part))

17.42.060 Specific standards.

A. The uses and activities permitted in all areas contained in the OM zone are subject to the following specific standards:

1. Shoreline stabilization subject to the standards of Chapter 17.80.230.

2. Foredune Breaching.

a. The breaching is required to replenish sand supply in interdune areas, or is undertaken on a temporary basis for emergency purposes such as fire control or the alleviation of flood hazard.

b. There are no other reasonable alternatives to alleviate the emergency.

c. The breaching does not endanger existing development.

d. The area affected by the breaching is restored according to an approved restoration plan prepared by a registered geologist, or other qualified individual approved by the city. At a minimum, foredunes shall be restored to a dune profile which provides flood protection equivalent to that prior to breaching. The restoration plan shall also include appropriate revegetation.

3. Foredune Grading. Grading or sand movement necessary to maintain views or to prevent sand inundation, may be allowed for

structures in active dune areas only if the area is committed to development and only as part of an overall plan for managing foredune grading. A foredune grading plan prepared by a qualified expert shall include the following elements based on consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and effects of beachfront protective structures and jetties. The plan shall:

a. Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion or accretion as a result of dune grading;

b. Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the one hundred year flood elevation established in the "Flood Insurance Study, City of Cannon Beach, Oregon, March 1978";

c. Identify and set priorities for low and narrow dune areas which need to be built up;

d. Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and

e. Prohibit removal of sand from the beach-foredune system.

f. Foredune grading plans may be submitted to the soil and water district for their comments.

g. The foredune grading plan must be adopted as an amendment to the comprehensive plan before construction can begin.

4. Remedial Dune Grading.

a. The remedial grading of active dune areas is permitted in the following cases:

i. Clearing of sand which is inundating houses or commercial buildings and their associated improvements. Sand may be graded up to thirty-five feet from a building's foundation subject to the following conditions:

(A) The area to be graded constitutes open sand dunes or the back slope of a foredune,

(B) There is no modification to the crest of a foredune,

(C) At a minimum, the area graded shall maintain the one hundred year flood elevation as established by the city's Flood Insurance Rate Map (FIRM), and

(D) No grading shall occur west of the Oregon Coordinate Line, except for the placement of material removed from the structure in question;

ii. Excavation necessary for the purpose of placing a beachfront protective structure;

iii. Clearing of sand which is inundating a public street and is interfering with vehicular or pedestrian traffic;

iv. Excavation of sand necessary to alleviate stormwater build-up;

v. Minor reshaping of the forward portion of a dune necessary to provide an even slope for the planting of stabilizing vegetation.

b. As a condition of the issuance of a development permit, the city may require the preparation of a vegetation planting program by a qualified individual. The purpose of the program is to minimize the need for additional remedial grading in the future.

c. Where feasible, all graded sand shall be placed on the beach or foreslope portion of the adjoining dune. Where not feasible,

the sand shall be placed at a location approved by the city. In no event shall sand be removed from the beach or active dune area.

5. Nonstructural Shoreline Stabilization Program.

a. The program is prepared by a qualified individual approved by the city. The program shall be based on an analysis of the area subject to accretion and/or erosion. The area selected for management shall be found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.

b. The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.

c. Fire-resistant species are the preferred stabilizing vegetation within twenty-five feet of existing dwellings or structures. Fire-resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.

d. Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.

e. The affected property owners shall establish a mechanism that provides for the on-going management of the proposed program.

f. The impact of the program shall be monitored. For multiyear programs, an annual report detailing the effects of the program during the previous year shall be presented to the planning commission. The report shall include recommendations for program modification. For a one-year program, a final report detailing the effects of the program shall be presented to the planning commission.

g. Areas that accrete as the result of a stabilization program will not form the basis for reestablishing the location of the building line specified by Section 17.42.050(B) (3).

6. Trimming of Stabilizing Vegetation.

a. Mowing should occur between May and August.

b. Mowing shall be done by hand or with a weed eater type machine. Grass should be cut as evenly as possible leaving six to eight inches of grass remaining above ground.

c. Mowed grass shall be left in place as a mulch, unless determined to be a fire hazard by the Fire Marshal.

d. If an area is mowed more than once, application of 21-0-0 ammonium sulfate fertilizer may be required.

e. The foreslope area of the dune, the portion of the dune facing the beach, should not be mowed.

f. Use of herbicides to control or eliminate vegetation is not permitted.

7. Beach Access.

a. The city may require the planting of stabilizing vegetation, fencing or signage in order to minimize the potential for wind ero-

sion that may be caused by the use of the beach access on adjacent areas.

8. Groundwater Protection. The proposed development will not result in the drawdown of the groundwater supply in a manner that would lead to: (a) the loss of stabilizing vegetation; (b) the loss of water quality; (c) salt water intrusion into the water supply; or (d) significant lowering of interdune water level. Building permits for single-family dwellings are exempt from this requirement if appropriate findings are provided at the time of subdivision approval.

9. Public Access Provision. A development (e.g., subdivision or planned development) that includes ten or more dwelling units, shall provide common beach access trails or walkways open to the general public. At a minimum, there shall be one beach access for each four hundred feet of beach frontage. This requirement is in addition to access provided by existing street-ends.

10. Structures in the Ocean Yard. The following structures are permitted in an ocean yard:

a. Fences subject to the provisions of Section 17.54.020(C);

b. Decks subject to the provisions of Section 17.90.070(E);

c. Beach access stairs subject to Section 17.42.030(A)(5) and 17.42.030(D)(1).

11. Maintenance Foredune Grading.

a. The affected area was previously graded pursuant to an approved foredune grading plan.

b. An annual monitoring report demonstrates the overall stability of the area proposed for grading.

c. The cumulative volume of proposed grading, within an approved foredune grading management area, for which a conditional use permit was obtained, does not exceed two thousand five hundred cubic yards. (Example: In year one a permit is issued to grade seven hundred fifty cubic yards of material; one thousand seven hundred fifty cubic yards of potential additional volume remain for maintenance grading. In year three a permit is issued to grade one thousand cubic yards of material; seven hundred fifty cubic yards of potential additional volume remain for maintenance grading. In year four it is proposed that one thousand two hundred fifty cubic yards of material be graded. This grading cannot be accomplished by means of a permit for maintenance grading because the cumulative grading would be three thousand cubic yards, exceeding the maximum of two thousand five hundred cubic yards. A conditional use permit for foredune grading would be required to implement this additional one thousand two hundred fifty cubic yards of grading).

d. The proposed sand deposition area will not impact views from adjoining property.

e. The grading is conducted pursuant to the standards of Section 17.42.060 3(b) and (e).

f. The cross-sectional area of the dune area, as measured perpendicular to the shoreline and above the one hundred-year stillwater flood elevation and seaward of the dune crest, is at least five hundred forty square feet.

g. The graded area shall be contoured to avoid large expanses of flat surfaced area.

h. The area is replanted in conformance with the standards in the approved foredune grading plan.

i. Any necessary permits are obtained from the Oregon Parks and Recreation Department.

j. Notification to adjoining property owners shall be those within two hundred fifty feet of the exterior boundary of the subject property, rather than the one hundred feet specified in Section 17.92.010(C)(2)(d).

k. The planning commission shall be informed of development permits for maintenance grading that are issued. (Ord. 07-3 § 4; Ord. 94-08 § 10 (part))

Chapter 17.43

WETLANDS OVERLAY (WO) ZONE

Sections:

17.43.010 Purpose.
17.43.020 Mapping.
17.43.025 Wetland lot-of-record.
17.43.030 Uses and activities permitted outright in wetlands.
17.43.035 Uses and activities permitted outright in wetland buffer areas.
17.43.040 Conditional uses and activities permitted in wetlands.
17.43.045 Conditional uses and activities permitted in wetland buffer areas.
17.43.050 Standards.

17.43.010 Purpose.

The purpose of the wetlands overlay zone is to protect wetland areas identified in the city's comprehensive plan from uses and activities that are inconsistent with the maintenance of the wetland functions and values identified for those sites. (Ord. 94-29 § 2 (part))

17.43.020 Mapping.

A. The maps delineating the WO zone boundaries shall be maintained and updated as necessary by the city. The Cannon Beach Local Wetland Inventory maps dated September 20, 1994, shall form the basis for the location of wetlands. The WO zone includes both wetland and wetland buffer areas which abut wetlands. The wetland buffer area has a

width of five feet measured from the outer boundaries of the wetland.

B. Site-specific wetland delineations or determinations are required to determine the exact location of the WO zone boundary. Wetland determinations and delineations shall be conducted in accordance with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual along with any supporting technical or guidance documents issued by the Division of State Lands and applicable guidance issued by the U.S. Army Corps of Engineers for the area in which the wetlands are located.

C. Where a wetland delineation or determination is prepared, the mapping it contains shall replace that of the Cannon Beach Local Wetland Inventory. Wetland delineations or determinations shall remain valid for a period of not more than five years from the date of their acceptance by the Division of State Lands.

D. The continued reliance on a wetland delineation or determination that is more than five years old requires the following additional new information:

1. An onsite re-inspection of the site by a qualified individual to determine if there has been any change in circumstances;

2. If no change in circumstances is found, a short report noting or including:

a. A description of site conditions and any changes between the date of the original wetland determination or delineation and the date of the re-inspection,

b. Any additional maps, aerial photographs or other documents consulted, and

c. Conclusions regarding the accuracy of the original wetland delineation or determination;

3. If a change in circumstances is noted, the information in subsection (D)(2) of this section shall be provided along with:

a. Additional field data, including wetland determination data in conformance with Division of State Lands standards needed to verify and document any change in the status of the wetland area that were or were not identified and mapped as part of the original delineation or determination,

b. A revised wetland map,

c. Data, documentation, and other information as needed to establish the nature and timing of the activity or activities that resulted in the change in circumstances.

E. Protected wetlands that are legally filled under this chapter are no longer protected wetlands, but remain as wetland buffer areas under this overlay zone. Wetland buffer areas that are legally filled under this chapter remain as wetland buffer areas. (Ord. 08-1 § 40: Ord. 94-29 § 2 (part))

17.43.025 Wetland lot-of-record.

A wetland lot-of-record is a lot or contiguous lots held in common ownership on August 4, 1993, that are subject to the provisions of this chapter. A wetland lot-of-record includes upland portions of the contiguous property that are not subject to the provisions of the wetlands overlay zone. "Contiguous" means lots that have a common boundary, and includes lots separated by public streets. A lot-of-record is subject to the provisions of this overlay zone if all or a portion of the lot is in the overlay zone. The objective of the wetland lot-of-record provision is to permit a property owner a minimum of one dwelling unit on a wetland lot-of-record. A dwelling can be constructed on the wetland portion of

a wetland lot-of-record only where there are no upland portions of the wetland lot-of-record that can accommodate a dwelling. The following examples illustrate how the wetland lot-of-record provisions of Section 17.43.030A and Section 17.43.035A are to be applied.

Example 1. A fifteen thousand square foot wetland lot-of-record consisting of three platted five thousand square foot lots all of which are entirely of wetlands; one dwelling unit is permitted.

Example 2. A fifteen thousand square foot wetland lot-of-record consisting of three platted five thousand square foot lots, two of which are entirely wetlands and one of which contains two thousand five hundred square feet of uplands; one dwelling unit is permitted on the upland portion of the lot which contains two thousand five hundred square feet of uplands.

Example 3. A fifteen thousand square foot lot-of-record consisting of three platted five thousand square foot lots, one lot is entirely a wetland, the second lot contains two thousand five hundred square feet of upland and the third lot contains three thousand five hundred square feet of upland; two dwelling units are permitted, one on the upland portion of the lot which contains two thousand five hundred square feet of upland and one on the upland portion of the lot which contains three thousand five hundred square feet of uplands. (Ord. 94-29 § 2 (part))

17.43.030 Uses and activities permitted outright in wetlands.

The following uses and activities may be permitted in the wetlands portion of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, and if permitted outright in the base zone:

A. Single-family dwelling, modular housing, or manufactured home meeting the standards of Section 17.68.020, limited to one dwelling unit on a wetland lot-of-record;

B. Accessory structure or building, as provided for by Section 17.54.030;

C. Roads or driveways, including an expansion of an existing right-of-way;

D. Underground or above-ground utilities;

E. Vegetation management. (Ord. 94-29 § 2 (part))

17.43.035 Uses and activities permitted outright in wetland buffer areas.

The following uses and activities may be permitted in wetland buffer areas of the WO zone, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to applicable standards, and if permitted outright in the base zone:

A. Single-family dwelling, modular housing, or manufactured home meeting the standards of Section 17.68.020, limited to one dwelling unit on a wetland lot-of-record;

B. Accessory structure or building, as provided for by Section 17.54.030;

C. Roads or driveways, including an expansion of an existing right-of-way;

D. Underground or aboveground utilities;

E. Vegetation management. (Ord. 94-29 § 2 (part))

17.43.040 Conditional uses and activities permitted in wetlands.

The following uses and activities may be permitted subject to the provision of Chapter 17.80 in the wetland portion of the WO zone, subject to applicable standards, if

permitted outright or conditionally in the base zone:

A. Commercial structures;

B. Excavation;

C. Wetland enhancement;

D. Compensatory mitigation;

E. Footpaths;

F. Point-source stormwater discharge;

G. Alternative stormwater management practices;

H. Subdivisions, replats, partitions and property line adjustments. (Ord. 94-29 § 2 (part))

17.43.045 Conditional uses and activities permitted in wetland buffer areas.

The following uses and activities may be permitted subject to the provision of Chapter 17.80 in wetland buffer areas in the WO zone, subject to applicable standards, if permitted outright or conditionally in the base zone:

A. Commercial structures;

B. Excavation;

C. Wetland enhancement;

D. Compensatory mitigation;

E. Bicycle paths;

F. Footpaths;

G. Point-source stormwater discharge;

H. Subdivisions, partitions, lot line adjustments. (Ord. 94-29 § 2 (part))

17.43.050 Standards.

The following standards are applicable to the uses and activities listed in Sections 17.43.030 through 17.43.045. The uses and activities are also subject to the standards of the base zone. The following standards are applicable in all areas under the wetlands overlay zone. "Protected wetlands" are those areas in the wetlands overlay zone that have been identified on the city's inventory or on a subsequent detailed wetland delineation as wetlands. "Wetland buffer areas" are non-wetland areas in the wetlands overlay zone surrounding the protected wetlands.

A. General Standards. Uses and activities in protected wetlands and in wetland buffer areas are subject to the following general standards. Development may also be subject to specific standards in subsequent subsections.

1. Uses and activities in protected wetlands or wetland buffer areas may be approved only after the following list of alternative actions, listed from highest to lowest priority, have been considered:

a. Avoiding the impact altogether by not taking a certain action or parts of an action (this would include, for example, having the use or activity occur entirely on uplands); and

b. Minimizing impacts by limiting the degree or magnitude of action and its implementation (this would include, for example, reducing the size of the structure or improvement so that protected wetlands or wetland buffer areas are not impacted).

2. Where a use or activity can be located in either the protected wetland or the wetland buffer, preference shall be given to the location of the use or activity in the wetland buffer.

3. Valid permits from the US Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must be obtained before any of the following activities occur in protected wetlands:

a. Placement of fill (any amount);

b. Construction of any pile-support structure;

c. Excavation (any amount);

d. Compensatory mitigation;

e. Wetland restoration;

f. Wetland enhancement.

4. Where a wetland was identified by the Cannon Beach wetland study as riverine, uses and activities are also subject to the requirements of Chapter 17.71, stream corridor protection.

5. Construction management practices will be employed in protected wetlands and in wetland buffer areas that minimize short-term and long-term impacts on wetlands. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with construction waste or debris, unnecessary or excessive vegetation removal or damage. Construction debris shall be removed from the site and properly disposed of. Tools that require cleaning, including paint tools, masonry equipment, and drywall tools, shall be cleaned in a manner that does not degrade water quality. The building official may require preparation of a detailed management program, indicating how these requirements are to be addressed.

6. Pile-supported construction may use wood piling (treated or untreated), steel piling, concrete piling, or other piling material meeting building code requirements. If treated wood piling or posts are used for structures in protected wetlands, the following standards are applicable:

a. Treated wood shall be completely dry;

b. Treated wood shall not have any wet wood preservative on the wood surface; and

c. The type of chemical treatment chosen shall be the type that minimize possible contamination of the wetland environment.

7. Fill, when permitted, in protected wetlands or in wetland buffer areas is subject to the following standards:

a. All fill material shall be clean and free of contaminants;

b. Filled area sides shall be finished to a stable slope;

c. Measures shall be incorporated into the fill design to minimize erosion or sloughing of fill material into protected wetlands;

d. Fills shall be designed in a manner that does not worsen flooding on adjacent or nearby floodprone lands, and avoids restricting the flow of water to or through protected wetlands; and

e. Fill side slopes shall be revegetated with native plant species to stabilize the slope.

B. Residential Development. Where and when allowed, a single family dwelling, modular housing, or manufactured home may be permitted in a protected wetland or wetland buffer area subject to the following standards:

1. New dwellings, when permitted, may be placed on piling or on posts, or may be cantilevered, in a manner that allows the free flow of water beneath the structure. No fill material may be used for the residence.

2. Building coverage will be minimized, and in no case shall it exceed two thousand five hundred square feet.

3. Driveways, utilities, landscaping, garages, accessory structures and other uses and activities accessory to a residence shall comply with applicable standards.

C. Commercial Development. Where and when allowed by the base zone, a commercial building may be permitted in a protected wetland or wetland buffer area subject to the following standards:

1. New commercial buildings may be placed on piling or on posts in a manner that allows the free flow of water beneath the structure. No fill material may be used for commercial buildings in protected wetlands or in wetland buffer areas.

2. Lot coverage will be minimized. Commercial development in protected wetlands or in wetland buffer areas is subject to site design review pursuant to Chapter 17.44.

3. Driveways, parking, utilities, landscaping, accessory structures and other uses and activities accessory to a commercial development shall comply with applicable standards.

D. Accessory Structure or Building. Buildings and structures subordinate to the principal structure may be permitted in protected wetlands and in wetland buffer areas subject to these standards, and subject to the requirements of the base zone:

1. New accessory structures or buildings may be placed on piling or on posts in a manner that allows the free flow of water beneath the structure. No fill material may be used for an accessory structure or building in a protected wetland or in a wetland buffer area.

E. Roads and Driveways. Roads and driveways through protected wetlands or wetland buffer areas may be permitted subject to the following standards:

1. Driveways and roads crossing protected wetlands or wetland buffer areas shall be no wider than necessary to serve their intended purpose.

2. New roads and driveways in protected wetlands or wetland buffer areas may be placed on piling or on fill in a manner that allows the free flow of water beneath the road or driveway. Pile-supported construction is preferred over fill for roads and driveways. Water circulation shall be facilitated through use of culverts or bridges.

F. Utilities. Electric power lines, telephone lines, cable television lines, water lines, wastewater collection lines and natural gas lines may be permitted in protected wetlands and in wetland buffer areas subject to these standards, and subject to the requirements of the base zone:

1. Underground utilities, including water, wastewater, electricity, cable television, telephone and natural gas service, may be routed through protected wetlands in trenches provided the following standards are met:

a. Material removed from the trench is either returned to the trench as back-fill within a reasonable period of time, or, if other material is to be used to back-fill the trench, excess material shall be immediately removed from the protected wetland area. Side-casting into a protected wetland for disposal of material is not permitted;

b. Topsoil and sod shall be conserved during trench construction or maintenance, and replaced on the top of the trench;

c. The ground elevation shall not be altered as a result of utility trench construction or maintenance. Finish elevation shall be the same as starting elevation; and

d. Routes for new utility trenches shall be selected to minimize hydraulic impacts on protected wetlands, and to minimize vegetation removal.

2. Aboveground utilities, including electricity, cable television and telephone service, may be routed through wetland areas on poles subject to the following standards:

a. Routes for new utility corridors shall be selected to minimize adverse impacts on the wetland, and to minimize vegetation removal; and

b. Vegetation management for utility corridors in protected wetlands and in wetland buffer areas shall be conducted according to the best management practices to assure maintenance of water quality, and subject to the vegetation management standards herein.

3. Utility maintenance roads in protected wetlands and in wetland buffer areas must meet applicable standards for roads in wetlands.

4. Common trenches, to the extent allowed by the building code, are encouraged as a way to minimize ground disturbance when installing utilities.

G. Footpaths and Bicycle Paths. Development of new footpaths, and maintenance of existing footpaths may be permitted in protected wetlands and in wetland buffer areas subject to the use restrictions in the zone and the following standards. Development of new bicycle paths may be permitted in wetland buffer areas.

1. Footpaths across protected wetlands may only be developed or maintained without the use of fill material. Bridges shall be used to cross open water areas.

2. Footpaths in protected wetlands shall not restrict the movement of water.

3. Routes for new footpaths shall be chosen to avoid traversing protected wetlands. Footpaths around the perimeter of protected wetlands, and in wetland buffer areas, are preferred.

4. Routes for new bicycle paths shall not be located in protected wetlands but may be located in wetland buffer areas.

H. Wetland Enhancement. Efforts to enhance wetland values include removal of nonnative vegetation from a wetland, planting native wetland plant species, excavation to deepen wetland areas, placement of bird nesting or roosting structures, fish habitat enhancements, hydraulic changes designed to improve wetland hydrology, removal of fill material, adding new culverts under existing fill, and similar acceptable activities. Wetland enhancement may be permitted in protected wetlands and in wetland buffer areas subject to the use restrictions in the applicable zone, and subject to these standards:

1. An enhancement plan must be prepared before an enhancement project can proceed. The plan must describe the proposal; identify the wetland value or values to be enhanced; identify a goal or goals for the project; and describe evaluation techniques to be used to measure progress toward project goals. The project must follow the approved plan.

2. All components of the enhancement plan (planning, design, construction, clean-up, maintenance, monitoring, and remedial activity) must comply with applicable standards in this section.

I. Excavation. Excavation in protected wetlands and in wetland buffer areas for any purpose must meet the following standards:

1. Excavation for purposes of gravel, aggregate, sand or mineral extraction is not permitted.

2. Excavation for utility trenches in protected wetlands is subject to the following standards:

a. Material removed from the trench is either returned to the trench (back-fill), or removed from the wetland area. Side-casting into a protected wetland for disposal of material is not permitted;

b. Topsoil shall be conserved during trench construction or maintenance, and replaced on the top of the trench; and

c. The ground elevation shall not be altered as a result of utility trench construction or maintenance. Finish elevation shall be the same as starting elevation.

3. Excavation for building footings in protected wetlands is subject to the following standards:

a. Material removed for approved footings is either returned to the trench (backfill), or removed from the protected wetland or wetland buffer area. Side-casting for disposal of material is not permitted;

b. Disturbance of wetland vegetation and topsoil during footing construction shall be minimized; and

c. The ground elevation around a footing shall not be altered as a result of excavation for the footing, unless required to meet building code requirements for positive drainage. Finish elevation shall be generally the same as starting elevation.

4. Excavation for wetland enhancement is subject to the following standards:

a. No more material than necessary and specified in the enhancement plan shall be excavated; and

b. Side-casting for disposal of excavated material is not permitted; however, excavated material may be placed in a protected wetland or wetland buffer area for enhancement purposes as specified in the enhancement plan.

J. Stormwater Management. Management of stormwater flowing into protected wetlands or wetland buffer areas is subject to the following standards:

1. A stormwater management plan shall be required of the applicant and reviewed and approved by the public works director for the following types of developments where stormwater will move from the site into protected wetlands:

a. New building covering more than two hundred square feet; or

b. New addition covering more than two hundred square feet; or

c. New road or driveway; or

d. Road or driveway expansion; or

e. New parking lot; or

f. Parking lot expansion.

2. A stormwater management plan must include all information necessary to demonstrate to the public works director that the proposed stormwater management system will be consistent with the city's design standards.

3. Stormwater runoff should be directed toward the same drainage system that would have handled the runoff under natural conditions.

4. Uses, such as large parking lots, that could potentially contaminate runoff must include measures to treat runoff before discharging it into a protected wetland or wetland buffer area.

5. Where the public works director determines that wastewater volumes are or will be significant, wastewater management systems must disperse wastewater rather than discharging at a single point.

K. Mitigation. All projects involving removal or fill in a protected wetland must meet the following standards. These standards are intended to help meet the city's goal of no net loss of wetland functions or values.

1. Fill in protected wetlands or wetland buffer areas may be approved only after the following list of alternative and mitigating actions, listed from highest to lowest priority, have been considered:

a. Avoiding the impact altogether by not taking a certain action or parts of an action;

b. Minimizing impacts by limiting the degree or magnitude of action and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment (this would include removing wetland fills, rehabilitation of a resource use and/or extraction site when its economic life is terminated, etc.);

d. Reducing or eliminating the impact over time by preservation and maintenance operations;

e. Creation, restoration or enhancement of a wetland area to maintain the functional characteristics and processes of the wetland system, such as its natural biological productivity, habitats, aesthetic qualities, species diversity, open space, unique features and water quality.

2. Any combination of the actions in subsection K1 may be required to implement mitigation requirements. The compensatory mitigation actions listed in subsection K1e shall only be considered when unavoidable impacts remain after measures in subsections K1a through d have been considered.

3. The US Army Corps of Engineers or the Division of State Lands often require compensatory mitigation (subsection K1e, of this section) as part of their approval of a fill permit. The city may require compensatory mitigation before approving a fill in a protected wetland when the US Army Corps of Engineers and the Division of State Lands do not require compensatory mitigation. Additional compensatory mitigation may be required by the city in those instances where it is also required as a condition of a state or federal fill permit.

L. Vegetation Management. Vegetation in protected wetlands and in wetland buffer areas may be managed (including planting, mowing, pruning and removal) subject to the following standards:

1. Tree removal in protected wetlands and in wetland buffer areas shall be consistent with the criteria and standards in Chapter 17.70, tree removal.

2. Removal of vegetation, except trees covered by Chapter 17.70, in protected wetlands and in wetland buffer areas is permitted only if:

a. Necessary for placement of a structure for which a building permit has been issued (or for which a building permit is not needed); or

b. Necessary for maintenance of an existing structure, road or pathway; or

c. Necessary for correction or prevention of a hazardous situation; or

d. Necessary for completion of a land survey; or

e. Part of an approved restoration, enhancement or compensatory mitigation plan.

Vegetation removal permitted under subsections L2a through e in a protected wetland shall be the minimum necessary and in no case shall it substantially impair wetland functions and values. Vegetation removal permitted under subsections L2a through e in a wetland buffer area shall be the minimum necessary.

3. Pruning or mowing of vegetation in protected wetlands and in wetland buffer areas is permitted only if:

a. Necessary for placement of a structure for which a building permit has been issued (or for which a building permit is not needed); or

b. Necessary for maintenance of an existing structure, road or pathway; or

c. Necessary for correction or prevention of a hazardous situation; or

d. Necessary for completion of a land survey; or

e. Part of an approved restoration, enhancement or compensatory mitigation plan; or

f. Part of a landscape plan approved by the city in conjunction with a building permit that minimizes adverse impacts on protected wetlands.

Pruning or mowing permitted under subsections L3a through f in a protected wetland shall be the minimum necessary and in no case shall it substantially impair wetland functions and values. Pruning or mowing permitted under subsections L3a through f in a wetland buffer area shall be the minimum necessary.

4. Planting new vegetation in protected wetlands is permitted subject to the following standards:

a. The planting is part of an approved restoration, enhancement or mitigation plan; or

b. The planting is part of a landscape plan involving native wetland plant species, and the plan is approved by the city in conjunction with approval of a building permit; or

c. The planting is intended to replace dead or damaged plants that were either part of a maintained landscape or part of the existing wetland plant community.

5. Planting new vegetation in wetland buffer areas is permitted as part of a managed garden or landscape.

6. Vegetation management practices will be employed in protected wetlands and in wetland buffer areas that minimize short-term and long-term adverse impacts on wetlands. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with chemicals, unnecessary or excessive vegetation removal, or substantial alteration of native wetland plant communities. The following are not permitted as part of a vegetation management plan for protected wetlands or wetland buffer areas: alteration of wetland hydrology, use of herbicides, or application of soil amendments or fertilizer.

M. Land Divisions. Subdivisions, replats, partitions, and property line adjustments in protected wetlands, wetland buffer areas, or a wetland lot-of-record are subject to the following standards:

1. Preliminary plat maps for proposed subdivisions, replats and partitions involving protected wetlands or wetland buffer areas must show the wetland-upland boundary, as determined by a wetland delineation prepared by a qualified individual.

2. Subdivisions, replats, partitions and property line adjustments for the purpose of creating building sites are permitted subject to the following standards:

a. Each lot created must have at least one thousand square feet of upland available for building coverage, required off-street parking and required access.

b. The building site described in subsection M2a shall not include protected wetlands or wetland buffer areas.

c. Protected wetlands and wetland buffer areas may be counted towards meeting the base zone's minimum lot size for each lot, and may be included in front, side and rear yard setbacks as appropriate.

d. Utility lines, including but not limited to, water lines, sewer lines, and storm water lines shall not be located in protected wetlands or wetland buffer areas, unless there is no alternative to serve lots meeting the standard of subsection M2a.

e. Streets shall not be located in protected wetland or wetland buffer areas.

3. In planned unit developments or cluster subdivisions, all protected wetland or wetland buffer areas must be in open space tracts held in common ownership.

4. For lots or parcels created subject to these provisions, the existence of protected wetland or wetland buffer areas shall not form the basis for a future setback reduction or variance request. (Ord. 94-29 § 2 (part))

Chapter 17.44

DESIGN REVIEW PROCEDURES AND CRITERIA*

Sections:

17.44.010 Purpose.
17.44.020 Applicability.
17.44.030 Design review plan—When approval is required.
17.44.040 Design review plan—Review procedures.
17.44.050 Design review plan—Submittal requirements.
17.44.060 Design review criteria—Purpose.
17.44.070 Design review criteria—Statement of intent.
17.44.080 Site design evaluation criteria.
17.44.090 Architectural design evaluation criteria.
17.44.100 Landscape design evaluation criteria.
17.44.110 Revision of approved plans.
17.44.120 Landscaping standards.
17.44.130 Performance assurance.
17.44.140 Final approval expiration.

* Prior ordinance history: Ords. 89-2, 88-8, 87-13, 86-16, 85-3 and 79-4.

17.44.010 Purpose.

A. The purpose of design review is to exercise aesthetic judgment over development projects within the city in order to maintain the desirable character of the community. The community character is defined by having charm in the design of buildings, keeping buildings small in scale, honoring the beauty and ecology of the city's natural setting, and recognizing that the arts are an integral part of the community.

B. This broad purpose is furthered by the following specific purposes of design review:

1. To implement the goals and policies of the comprehensive plan;

2. To foster development that is designed, arranged and constructed in a manner that provides a safe, efficient and aesthetically pleasing community asset;

3. To encourage originality and creativity in site design, architecture and landscape design;

4. To ensure that the arrangement of all functions, uses and improvements of a development reflect the natural capabilities and limitations of its site and adjacent property;

5. To encourage development where the various structures, use areas and site elements are integrated in a manner that is visually harmonious;

6. To ensure that development maintains and strengthens the city's sense of place which is defined by its location adjacent to the Pacific Ocean, Ecola Creek and the surrounding mountains;

7. To encourage landscape design which complements the natural landscape, improves the general appearance of the community, and enhances specific elements of the built environment. (Ord. 90-3 § 15 (part))

17.44.020 Applicability.

The following shall be subject to the provisions of this chapter:

A. All new construction or new development except for single-family residence, mobile home, modular home and their accessory structures;

B. Any exterior alteration to an existing nonresidential use except for alterations which are determined to be minor, pursuant to Section 17.44.110 (B);

C. Any alteration of site improvements, such as landscaping or off-street parking, in conjunction with an existing nonresidential use, except for alterations which are determined to be minor, pursuant to Section 17.44. 110 (B);

D. Any exterior alteration to an existing duplex, triplex or multifamily structure except for alterations which are determined to be minor, pursuant to Section 17.44.110 (B);

E. Public Improvements.

1. Street improvements that involve design elements such as landscaping, lighting, sidewalks or street furniture, but not including benches that are proposed pursuant to the city's commemorative gift policy;

2. Installation of street furniture such as bike racks, benches or trash receptacles, but not including benches that are proposed pursuant to the city's commemorative gift policy;

3. Improvements affecting the visual appearance of the beach such as beach access improvement and storm drainage outfalls but not including benches that are proposed pursuant to the city's commemorative gift policy;

4. Sidewalks, both new and reconstruction of existing sidewalks;

5. Off-street parking for public use;

6. New park projects or major improvements to existing parks but not including improvements that are proposed pursuant to the city's commemorative gift policy; and

7. Street lighting projects that involve the installation of a different type of light fixture, or a new level of illumination, or a different spacing of light fixtures. (Ord. 05-14 § 1; Ord. 02-18 § 1: Ord. 92-11 §§ 55, 56; Ord. 90-3 § 15 (part))

17.44.030 Design review plan—When approval is required.

Design review plan approval, as specified by this chapter, shall be required prior to:

A. Site clearance activities such as tree removal, grading, excavation or filling; and

B. The issuance of a building permit. The plan for which a building permit is issued shall conform in all aspects to the plan that has approval through the design review process. Where building plans do not conform to the approved design review plan, the city shall determine, pursuant to Section 17.44.110, whether the alteration or modification is a major or minor change. If it is determined that the modification is a major change, the modification shall be reviewed according to the requirements of Sections 17.44.040 and 17.44.050. If it is determined that the modification is a minor change, the city may proceed with the issuance of a building permit. (Ord. 90-3 § 15 (part))

17.44.040 Design review plan—Review procedures.

The following procedures shall be used in reviewing design review plans:

A. Preapplication Conference. Prior to applying for design review plan approval, applicants shall meet with the city manager, or a designee, and present a preliminary plan which shall contain in an approximate manner the information required on a design review plan application. The purpose of the preliminary site plan review is to enable the applicant to obtain advice from the city as to the intent, standards, criteria and provi-

sions of this chapter, other city ordinances or the comprehensive plan, which may be pertinent to the proposal. Information presented for preliminary discussion shall be considered confidential.

B. Resolution of Planning Issues. Where a proposed development requires a variance, setback reduction, conditional use or other action which requires planning commission approval, planning commission approval shall be obtained prior to the submission of a design review plan.

C. Application.

1. Property owners or their designated representative may initiate a request for design review plan approval by filing an application with the city using forms prescribed by the city. In addition to the application form, the applicant shall submit the items listed in Section 17.44.050.

2. The city may waive specific application requirements for the following projects where it finds that the information is not required to provide the design review board with a complete understanding of the nature of the project:

a. Proposed modifications to existing structures; or

b. Modifications to projects which previously obtained design review approval; or

c. Public improvements listed in Section 17.44.020F.

D. Complete Application. Upon receipt of an application, the city shall review the application to ensure that it is complete. An application shall not be considered complete if it fails to contain any of the information and materials required by Section 17.44.050. If the application is found to be incomplete, the applicant will be provided with a description of the items required to complete it. The city shall not begin processing the application until the application has been found to be complete.

E. Investigation and Reports. The city manager, or a designee, shall prepare a report to the design review board on the conformance of the application with the pertinent zoning ordinance requirements. The report shall be available to the public, at a reasonable cost, seven days prior to the date set for the public hearing.

F. Design Review Board Consideration.

1. Notice of public hearing on the proposed design review plan shall be in accordance with Sections 17.88.010 through 17.88.040;

2. The date of the public hearing shall be in conformance with Section 17.88.050;

3. The design review board shall review the design review plan in accordance with Section 17.88.060;

4. The design review board decision shall be in accordance with Section 17.88.110;

5. Notification of the design review board decision shall be in accordance with Section 17.88.130;

6. The decision of the design review board may be appealed to the city council in accordance with Sections 17.88.140 through 17.88.190.

G. Reconsiderations. The applicant may request reconsideration of a final decision of a design review plan application by filing a new application, including a filing fee. The new application shall incorporate design modifications which address issues which formed the basis for the original plan denial. (Ord. 97-31 § 1; Ord. 92-11 § 57; Ord. 90-3 § 15 (part), 1990)

17.44.050 Design review plan—Submittal requirements.

A. Information Requirements. Information provided on the design review plan shall conform to the following:

1. Drawings depicting the proposal shall be presented on sheets not larger than twenty-four inches by thirty-six inches in the number of copies directed by the city;

2. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned.

B. Site Analysis Diagram. This element of the design review plan, which may be in a freehand form to scale, shall indicate the following site characteristics:

1. Location and species of trees greater than six inches in diameter when measured four and one-half feet above the natural grade, and an indication of which trees are to be removed;

2. On sites that contain steep slopes, potential geologic hazard or unique natural features that may affect the proposed development, the city may require contours mapped at two-foot intervals;

3. Natural drainageways and other significant natural features;

4. All buildings, roads, retaining walls, curbcuts and other manmade features;

5. Natural features, including trees and structures on adjoining property having a visual or other significant relationship with the site.

C. Site Photographs. Photographs depicting the site and its relationship to adjoining sites shall also be provided.

D. Site Development Plan. This element of the design review plan shall indicate the following:

1. Legal description of the lot;

2. Boundary dimensions and area of the site;

3. Location of all new structures and existing structures proposed to be retained, including their distances from the property line;

4. Area of the site covered by the structures described in subdivision 3 of this subsection and their percentage of the site;

5. All external dimensions of proposed buildings and structures;

6. The location of a building's windows, doors, entrances and exits;

7. Parking and circulation areas, including their dimensions;

8. Service areas for such uses as the loading and delivery of goods;

9. Locations, descriptions and dimensions of easements;

10. Grading and drainage plans, including spot elevations and contours at close enough intervals to easily convey their meaning;

11. Location of areas to be landscaped;

12. Private and shared outdoor recreation areas;

13. Pedestrian circulation;

14. The location of mechanical equipment, garbage disposal areas, utility appurtenances and similar structures;

15. Exterior lighting on the proposed building(s), including the type, intensity and area to be illuminated;

16. Location, size and method of illumination of signs;

17. Provisions for handicapped persons;

18. Other site elements which will assist in the evaluation of site development;

19. The location and names of all existing streets within or on the boundary of the proposed development;

20. A written summary showing the following:

a. For commercial and nonresidential development:

i. The square footage contained in the area proposed to be developed,

ii. The percentage of the lot covered by structures,

iii. The percentage of the lot covered by parking areas and the total number of parking spaces,

iv. The total square footage of all landscaped areas including the percentage consisting of natural materials and the percentage consisting of hard-surfaced areas such as courtyards,

b. For residential development:

i. The total square footage in the development,

ii. The number of dwelling units in the development (include the units by the number of bedrooms in each unit, e.g., ten one-bedroom, twenty-five two-bedroom, etc.),

iii. Percentage of the lot covered by:

(A) Structures,

(B) Parking areas,

(C) Recreation areas,

(D) Landscaping.

E. Landscape Plan. Development proposals with a total project cost exceeding two hundred fifty thousand dollars shall have the landscape plan prepared by a licensed landscape architect or licensed landscape contractor. This element of the design review plan should indicate the following:

1. The size, species and locations of plant materials to be retained or placed on the site;

2. The layout of proposed irrigation facilities;

3. The location and design details of walkways, plazas, courtyards and similar seating areas, including related street furniture and permanent outdoor equipment including sculpture;

4. The location, type and intensity of lighting proposed to illuminate outdoor areas;

5. The location and design details of proposed fencing, retaining walls and trash collection areas; and

6. For commercial projects with a total project cost exceeding two hundred fifty thousand dollars, a rendering showing the proposed landscape plan in perspective. Such renderings shall be prepared for each of the project's main elevations.

F. Architectural Drawings. This element of the design review plan shall indicate the following:

1. A plan specifying the building footprint and dimensions, including all points of access. Floor plans of interior spaces to the extent required to clarify access functions and the relationship of such spaces to decks, porches, balconies and stairs or other features shown on the building elevations. Such floor plans shall be provided for all building floors and shall include appropriate dimensions;

2. Exterior elevations showing finish materials, windows, doors, light fixtures, stairways, balconies, decks and architectural details. These elevations shall be provided for every exterior wall surface, including those which are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevations of floors indicated and a dimension showing compliance with height limitations;

3. The color and texture of finish materials shall be described on the drawings and samples shall be submitted of the materials and color ranges of siding, roofing and trim;

4. Location and type of exterior light fixtures including the lamp types and the levels of illumination that they provide;

5. A comprehensive graphic plan showing the location, size, material and method of illumination of all exterior signs. At the applicant's option, this plan may be submitted for approval at any time prior to the issuance of occupancy permits.

G. Architectural Model.

1. Architectural models shall be submitted for:

a. All new construction, other than duplexes or triplexes,

b. Alterations to existing structures other than duplexes or triplexes where the proposed alteration involves the addition of one thousand square feet of gross floor area or more;

2. The model shall be to scale and represent the proposed development and adjoining buildings within fifty feet of applicant's property lines;

3. The model need only be a massing model sufficient to illustrate the relationship of the proposed structure(s) to the site and surrounding properties.

H. Energy Conservation Measures.

1. A description of the method and type of energy to be used for heating and cooling of the building;

2. An explanation of the energy use and strategy being used to minimize the amount of energy needed to heat, cool and light the structure.

I. Property Survey.

1. A survey of the property by a licensed land surveyor clearly delineating property boundaries. The city may waive this requirement where there is a recent survey which can be used to establish the applicant's property boundaries;

2. Prior to the design review board meeting, the applicant will have clearly marked the corners of proposed buildings and other significant features proposed for the site. (Ord. 97-28 § 1; Ord. 94-06 § 3; Ord. 92-11 § 58; Ord. 90-3 § 15 (part), 1990)

17.44.060 Design review criteria—Purpose.

To ensure that the stated purposes of the design review process are met, the design review board shall be governed by the criteria of Sections 17.44.070 through 17.44.100 as they evaluate and render a decision on a proposed design review plan. (Ord. 90-3 § 15 (part), 1990)

17.44.070 Design review criteria—Statement of intent.

A. The design review criteria are intended to provide a frame of reference for the applicant in the development of site, building and landscape plans, as well as providing the city with a means of reviewing proposed plans. These criteria are not intended to be inflexible requirements, nor are they intended to discourage creativity. The specification of one or more architectural styles is not intended by these criteria.

B. The design review board is not authorized, as part of the design review process, to approve projects which exceed specific development standards provided for by the zoning ordinance (e.g., building height or building setback).

C. Potential full development of a site based solely on the standards of the zoning ordinance (e.g., building height, building setback, number of permitted motel units) may be inappropriate for a given site. It is for this reason that the design review board

is specifically delegated the discretion, through the application of the design review criteria, to require building or site designs which may or may not result in the potential full development authorized by the zoning ordinance.

D. The design review board, in making its determination of compliance with the design review criteria, shall consider the effect of their action on the availability and cost of needed affordable housing. The design review criteria shall not be used to exclude needed affordable housing types. However, this consideration shall not prevent the imposition of conditions necessary for a proposal to conform to the design review criteria. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this chapter. The design review board shall have no authority to affect dwelling unit density. (Ord. 90-3 § 15 (part), 1990)

17.44.080 Site design evaluation criteria.

The following criteria shall be used in evaluating site development plans. The number adjacent to the criterion represents the relative importance of that criterion, with "3" being the most important:

x3 A. The arrangement of all functions, uses, and improvements has been designed so as to reflect and harmonize with the natural characteristics and limitations of the site and adjacent sites.

x3 B. In terms of setback from the street or sidewalk, the design creates a visually interesting and compatible relationship between the proposed structures and/or adjacent structures.

x3 C. The design incorporates existing features such as streams, rocks, slopes, vegetation (i.e., making use of a small stream rather than placing it in a culvert).

x3 D. If the project is unusually large, or if it is located so as to become part of an introduction/transition to the city or to a particular district or to the beach, the design acknowledges the special impact the project would have on the entire community by addressing these design criteria in an exemplary, standard-setting manner.

x2 E. Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining landscaping/open space in order to create a pedestrian pathway and/or open system that connects several properties.

x2 F. The arrangement of the improvements on the site do not unreasonably degrade the scenic values of the surrounding area.

x2 G. The improvements on the site enhance and/or do not deny solar access, light or air within the site or to adjacent sites or structures.

x2 H. Where appropriate, the design includes a parking and circulation system that encourages a pedestrian rather than vehicular orientation, including a separate service area for delivery of goods.

x2 I. The arrangement of the improvements on the site does not unreasonably block or greatly degrade scenic vistas enjoyed from neighboring (especially public) sites.

x2 J. The various functions and elements of the site design have been integrated into a unified whole, except in those cases where separation is appropriate.

The overall design is visually harmonious when viewed either from within the site or from outside the site.

x1 K. The design gives attention to the placement of storage or mechanical equipment so as to screen it from view.

x2 L. If the project is adjacent to, or visible from, US Highway 101, the design minimizes its visual impact on the scenic character of Highway 101.

x3 The arrangement of functions, uses and improvements on the site have been designed to provide access to and within the site for individuals with disabilities.

(Ord. 02-2 § 1; Ord. 94-06 § 4; Ord. 90-3 § 15 (part), 1990)

17.44.090 Architectural design evaluation criteria.

The following criteria shall be used in evaluating architectural designs. The number adjacent to the criterion represents the relative importance of that criterion, with "3" being the most important:

x3 A. The design avoids either monotonous similarity or excessive dissimilarity with existing structures, or structures for which a permit has been issued, in its section of town (i.e., downtown, midtown, etc.). If the development includes multiple structures, the design avoids either monotonous similarity or excessive dissimilarity between the component structures.

x3 B. The size, shape and scale of the structure(s) are architecturally compatible with the site and with the surrounding neighborhood. The structure is sufficiently modest in scale to enhance the village character of the community.

x3 C. The proposed materials and colors are compatible with the character and coastal setting of the city.

x3 D. The design avoids monotony and provides visual interest and charm by giving sufficient attention to architectural details and to such design elements as texture, pattern and color.

x3 E. If the project includes a large structure or structures, such as a large motel or condominium, the design avoids a monolithic expanse of frontages and rooflines and diminishes the massing of the buildings by breaking up building sections, or by the use of such elements as variable planes, projections, bays, dormers, setbacks, or changes in the roofline.

x3 F. If the project is unusually large, or if it is likely to become a village landmark, or if it is located so as to become part of an introduction/ transition to the city or to a particular district or to the beach, the design acknowledges the special impact the project would have on the entire community by addressing the design criteria in an exemplary, standard-setting fashion.

x2 G. The height of the structure(s) is architecturally compatible with the site and the surrounding neighborhood. The height of the structures contributes to the village scale.

x2 H. The height of the structure(s) is such that it does not unreasonably destroy or degrade the scenic values of the surrounding area.

x2 I. The height of the structure(s) is such that it does not unreasonably

block or greatly degrade the views of scenic vistas as seen from neighboring sites.

x2 J. The height of the structure(s) is such that it does not unreasonably deny solar access, light or air to an adjacent structure, on or off the site.

x2 K. The design sufficiently addresses the relationship of the structure(s) to the sidewalk and to pedestrian activity so as to foster human interaction.

x2 L. The proposed signage harmonizes with the other structures in terms of form, materials and scale.

x2 M. The lighting fixtures are compatible with the architectural design, and the effect of the illumination produced is sufficiently subdued to be compatible with the village character and avoids casting glare on adjoining property.

x2 N. The project incorporates design elements or building improvements which result in the conservation of energy.

xl O. The design of the project ensures continued privacy for the occupants of adjacent structures. In cases of multifamily housing, this item is to be rated as x3.

(Ord. 90-3 § 15 (part), 1990)

17.44.100 Landscape design evaluation criteria.

The following criteria shall be used in evaluating landscape plans. The number adjacent to the criterion represents the relative importance of that criterion, with "3" being the most important:

x3 A. The design substantially complements the natural environment of Cannon Beach and the character of the site.

x3 B. The design harmonizes with and enhances the architectural design.

x3 C. The landscape design acknowledges the growing conditions for this climatic zone and the unique requirements that its specific site location makes upon plant selection (i.e., salt, wind and wind exposure, soil condition, light, shade, etc.).

x3 D. Provision has been made for the survival and continuous maintenance of the landscape and its vegetation.

x3 E. Where it is desirable to do so, the design provides amenities for the public.

x2 F. The design makes use of existing vegetation and incorporates indigenous planting materials.

x2 G. The selection and arrangement of plant materials provides visual interest by the effective use of such design elements as color, texture and size differentiation.

x2 H. The hard surface portion of the design makes use of visually interesting textures and patterns.

x2 I. Where it is desirable to do so, the design provides visual interest through the creation of a variety of elevations.

x2 J. The design contributes to the stabilization of slopes, where applicable.

x2 K. The design successfully delineates and separates use areas, where it is desirable to do so.

x2 L. The lighting fixtures and level of illumination are compatible with the landscape design. The level of illumination produced enhances the overall project and does not cast glare on adjacent property.

(Ord. 90-3 § 15 (part), 1990)

17.44.110 Revision of approved plans.

Construction documents (i.e., drawings and specifications) shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review the modification. The city and the chair of the design review board shall review the proposed modification to determine whether it constitutes a "major" or "minor" revision of the approved plans.

A. Major Modifications.

1. Major modifications are those which result in a significant change in the approved plan.

2. The following are examples of major modifications:

a. Changes to the siting of a building;

b. Modification of the areas to be landscaped; and

c. Modifications to a plan element that was the subject of a design review board condition.

3. If the city determines that the proposed change is a major modification, the proposed alteration shall be reviewed in the same manner as a new application.

B. Minor Modifications.

1. Minor modifications are those which result in an insignificant change in the approved plan.

2. The following are examples of minor modifications:

a. Limited dimensional or locational changes to building elements such as windows or doors;

b. Changes in building materials where only a limited area is affected; and

c. Substitution of landscape materials which do not affect the overall landscape design.

3. If the city determines that the proposed change is a minor modification, the city will proceed with the review of the construction documents or changes in construction. (Ord. 90-3 § 15 (part), 1990)

17.44.120 Landscaping standards.

The following landscape requirements are established for developments subject to design review plan approval:

A. Area Required. The following minimum lot area shall be landscaped for the following uses:

1. Duplexes and triplexes: forty percent;

2. Multifamily dwellings containing four or more units: thirty percent;

3. Nonresidential uses (e.g., commercial, industrial, governmental): twenty percent.

B. Landscaping Defined.

1. The required landscaping for duplexes, triplexes and multifamily dwellings described in Section 17.44.120(A) shall consist of living plant material such as trees, shrubs, groundcover, flowers and lawn. Except for areas under roof eaves as defined by Section 17.90.070(A), an area designated as landscaping must be open to the sky; areas under covered walkways, sky bridges and similar covered structures are not be included in the calculation of landscaped area.

2. The required landscaping for nonresidential uses described in Section 17.44.120(A) shall include any combination of the following materials: living plant mate-

rial such as trees, shrubs, groundcover, flowers and lawn; and hard surfaced materials such as benches, walkways, courtyards and outdoor seating areas. Living plant material shall constitute a minimum of fifty percent of the total required landscaping area. Except for areas under roof eaves as defined by Section 17.90.070(A), an area designated as living plant material must be open to the sky; areas under covered walkways, sky bridges and similar covered structures can not be included in the calculation of the landscaped area consisting of living plant material. Landscaped areas consisting of hard surfaced material, as described above, must also be open to the sky, except for areas under roof eaves as defined by Section 17.90.070(A). However, the area of a porch, defined as a structure that projects from the exterior wall of a building and is covered by a roof and is adjacent to a sidewalk, may be included in the computation of hard surfaced landscape area.

3. Landscaped areas shall have a minimum width of three feet.

C. Maintenance of Existing Vegetation. Existing site vegetation shall be utilized to the maximum extent possible consistent with building placement and the proposed landscape plan.

D. Parking Lots. Parking areas shall be landscaped in accordance with the requirements of Section 17.78.030(5)—(7).

E. Buffering and Screening. Buffering and screening areas shall conform to the requirements of Chapter 17.66.

F. Grading. The grading and contouring of the site, and on-site drainage facilities, shall be designed so there is no adverse affect on neighboring properties or public rights-of-way.

G. Plant Material Installation Standards.

1. Landscape plant materials will be installed to current nursery industry standards (OAN).

2. Landscape plant materials shall be properly guyed and staked to current industry standards. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.

3. Deciduous trees shall be fully branched, have a minimum caliper of one and one-half inches and a minimum height of eight feet at the time of planting.

4. Evergreen trees shall have a minimum size of six feet in height, fully branched, at the time of planting.

5. Shrubs shall be supplied in one-gallon containers or eight-inch burlap balls with a minimum spread of twelve inches. Shrubs shall be planted on a maximum of thirty inches on center.

6. Groundcover shall be supplied in either of the following quantities:

a. Four-inch containers planted on a maximum of eighteen inches on center or between rows; or

b. Two and one-fourth-inch containers planted on a maximum of twelve inches on center or between rows.

7. Rows of plants should be staggered for more effective coverage.

H. Irrigation. All landscaping areas for uses other than duplexes or triplexes shall be irrigated or shall be certified, by a licensed landscape architect, licensed landscaper or nurseryperson, that they can be maintained and survive without artificial irrigation. If the plantings fail to survive, it is the respon-

sibility of the property owner to replace them.

I. Maintenance. All landscaping approved as part of a design review plan shall be continuously maintained including necessary watering, weeding, pruning and replacement of plant materials. As part of design review approval, the design review board may require the execution of a contract for the maintenance of landscaped areas.

J. Lighting. Lighting shall be subdued. Low-intensity ground lights for walking or parking areas are preferred. No pole-mounted light shall exceed a height of fifteen feet. (Ord. 08-1 §§ 41, 42; Ord. 90-3 § 15 (part), 1990)

17.44.130 Performance assurance.

A. Landscaping or other site improvements required pursuant to an approved design review plan shall be installed prior to the issuance of certificate of occupancy or final inspection, unless the property owner submits a performance assurance device committing the installation of landscaping or other site improvement within six months. In no case shall the property owner delay performance for more than six months.

B. Performance assurance devices shall take the form of one of the following:

1. A surety bond executed by a surety company authorized to transact business in the state in a form approved by the city attorney;

2. Cash;

3. A letter of credit approval by the city attorney from a financial institution stating that the money is held for the purpose of development of the landscaping or other specified site improvement.

C. If a performance assurance device is employed, the property owner shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and perform any required work remaining undone at the expiration of the assurance device.

D. If the property owner fails to carry out provisions of the agreement and the city has reimbursable costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred by the city, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred by the city, the property owner shall be liable to the city for the difference. (Ord. 90-3 § 15 (part), 1990)

17.44.140 Final approval expiration.

The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained. (Ord. 90-3 § 15 (part), 1990)

Chapter 17.46

IMPACT ASSESSMENT PROCEDURE

Sections:

17.46.010 Purpose.
17.46.020 Impact assessment—Requirements.
17.46.030 Use of impact assessment.
17.46.040 Impact assessment—Information.
17.46.050 Impact assessment—Findings.

17.46.010 Purpose.

The purpose of this chapter is to provide an assessment process for development alterations which could potentially alter the estuarine ecosystem. A clear presentation of the impacts of the proposed alteration shall precede the following activities: dredging, filling, in-water structures such as structural shoreline stabilization, water intakes or outfalls. The impact assessment, which need not be lengthy or complex, should enable reviewers to gain a clear understanding of the impacts to be expected. Specific information to be provided in the impact assessment is found in Section 17.46.040. Methods which are to be employed to avoid or minimize impacts shall be set forth. (Ord. 95-21 § 2 (part): Ord. 86-10 § 6 (part): Ord. 79-4 § 1 (4.132) (part))

17.46.020 Impact assessment—Requirements.

A. An impact assessment in accordance with the provisions of this chapter shall be required for the following uses and activities when proposed for estuarine aquatic areas:

1. Filling or dredging (either dredging in excess of fifty cubic yards within a twelve-month period, or dredging of less than fifty cubic yards, which requires a Section 404 permit from the U.S. Army Corps of Engineers);
2. Active restoration;
3. In-water structures such as support structures;
4. Rip-rap or other shoreline stabilization;
5. Water intake or outfall;

(Monitoring of effluent discharge and application of pesticides and herbicides are the responsibility of the Department of Environmental Quality and the Oregon Department of Agriculture.)

B. Further, an impact assessment shall be required when a use or activity requires a determination of consistency with resource capability of the estuary zone. Note that federal environmental impact statements or environmental assessments may substitute for this requirement if available at the time of permit review. (Ord. 95-21 § 2 (part): Ord. 86-10 § 6 (part): Ord. 79-4 § 1 (4.132) (1))

17.46.030 Use of impact assessment.

A. Information contained in impact assessments shall be used in the evaluation of a use or activity during a conditional use (Chapter 17.80) permit review procedure. The impact assessment shall be used to:

1. Identify potential development alterations of significant estuarine fish and wildlife habitats and disturbance of essential properties of the estuarine resource;
2. Determine whether potential impacts can be avoided and minimized; and
3. To provide a factual base of information that will ensure that applicable standards in Section 17.80.120 are met.

B. Where a use requires a resource capability determination, information in the impact assessment will be used to determine consistency of proposed uses and activities with the resource capability analysis and shall be based on the requirements in Section 17.46.040. (Ord. 95-21 § 2 (part): Ord. 86-10 § 6 (part): Ord. 79-4 § 1 (4.132) (2))

17.46.040 Impact assessment—Information.

A. Impact assessments shall contain the following information:

1. The type and extent of alterations expected;

2. The type of resource(s) affected;

3. The expected extent of impacts of the proposed alteration on water quality and other physical characteristics of the estuary, living resources, recreation and aesthetic use, navigation and other existing and potential uses of the estuary; and

4. The methods which could be employed to avoid or minimize adverse impacts.

B. It is the responsibility of the applicant to provide this information. (Ord. 95-21 § 2 (part): Ord. 86-10 § 6 (part): Ord. 79-4 § 1 (4.132) (3))

17.46.050 Impact assessment—Findings.

Resulting from the analysis of the information presented in the impact assessment, one of the following findings shall be concluded:

A. The proposed uses and activities are in conformance with all comprehensive plan policies and zoning ordinance standards and do not represent a potential degradation or reduction of significant fish and wildlife habitats and essential properties of the estuarine resource. Where an impact assessment is required for a resource capability determination, the proposed uses are consistent with the resource capability, and meet the purpose of the management zone or area.

B. The proposed uses and activities are in conformance with all comprehensive plan policies and zoning ordinance standards, but represent a potential degradation or reduction of significant fish and wildlife habitats and essential properties of the estuarine resource. The impact assessment identifies reasonable alternatives to proposed actions that will eliminate or minimize to an acceptable level expected adverse environmental impacts. Where an impact assessment is required for a resource capability determination, the adverse environmental impacts have been minimized to be consistent with the resource capability and purpose of the management area or zone. The proposed uses and activities may be accommodated and found to be consistent with resource capabilities and meet the purpose of the management area or zone.

C. The proposed uses and activities are not in conformance with all comprehensive plan policies and zoning ordinance standards. The impact assessment and analysis indicate that unacceptable loss will result from the proposed development alteration. The proposed uses and activities represent irreversible changes and actions and unacceptable degradation or reduction of significant estuarine fish and wildlife habitats and essential properties of the estuarine resources will result; or, that the adverse consequences of the proposed uses and activities, while unpredictable and not precisely known, would result in irreversible trends or changes in estuarine resource properties and functions.

D. Available information is insufficient for predicting and evaluating potential impacts. More information is needed before the project can be approved. (Ord. 95-21 § 2 (part): Ord. 86-10 § 6 (part): Ord. 79-4 § 1 (4.132) (4))

Chapter 17.48

RESOURCE CAPABILITY DETERMINATION

Sections:

17.48.010 Purpose of provisions.
17.48.020 Definition of resource capability.
17.48.030 Purpose of the estuary zone.
17.48.040 Resource capability procedure.
17.48.050 Identification of resources and impacts.
17.48.060 Resource capability administrative provisions.
17.48.070 Appeal procedure.

17.48.010 Purpose of provisions.

Certain uses and activities in the estuary zone are allowed only if determined to meet the resource capability and purpose of the zone in which the use or activity occurs. The purpose of this chapter is to establish a procedure for making a resource capability determination. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (part))

17.48.020 Definition of resource capability.

A use or activity is consistent with the resource capabilities of the area when either the impacts of the use on estuarine species, habitats, biological productivity and water quality are not significant or that the resources of the area are able to assimilate the use and activity and their effect and continue to function in a manner which conserves long-term renewable resources, natural biologic productivity, recreational and aesthetic values. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (1))

17.48.030 Purpose of the estuary zone.

A. The purpose of the estuary zone is to:

1. Assure the protection of fish and wildlife habitats;

2. Maintain the biological productivity within the estuary; and

3. Provide for low-intensity uses that do not require major alterations of the estuary. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (2))

17.48.040 Resource capability procedure.

In order to determine whether a use or activity is consistent with the resource capability and purpose of the zone for which the use or activity is proposed, the following procedure is required:

A. Identification of the area in which the activity is proposed, and the resources of the area;

B. Identification of adverse impacts of the proposed use or activity on the resource identified in subsection A of this section. This information is included in Chapter 17.46, Impact Assessment Procedure;

C. Determination of whether the resources can continue to achieve the purpose of the zone in which the use or activity is proposed. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (3))

17.48.050 Identification of resources and impacts.

A. The applicant for a proposed use or activity in which a resource capability determination must be made shall submit the following:

1. Information on resources present in the area in which the use or activity is proposed;

2. Impact assessment as specified in Chapter 17.46, Impact Assessment Procedure. (Federal environmental impact statements or environmental assessments may be substituted if available at the time of the permit request.)

B. If, in the course of review, additional information is required to satisfy the provisions of this chapter, notification shall be made to the applicant outlining the additional information needed and the reason. Although the applicant shall be responsible for providing all necessary information, the city will assist the applicant in identifying inventory sources and information.

C. Identification of resources shall include both environmental (e.g., aquatic life and habitat present, benthic populations, migration routes) and social and economic factors. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (4))

17.48.060 Resource capability administrative provisions.

A. A resource capability determination for a use or activity identified in this title as a conditional use shall be made in accordance with the conditional use procedure set forth in Chapter 17.80.

B. Public notice of development proposals which require determination of consistency with resource capabilities shall be sent to state and federal resource agencies with mandates and authorities for planning, permit issuance and resource decision-making. These are: Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency and the U.S. Army Corps of Engineers. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (5))

17.48.070 Appeal procedure.

A resource capability determination made as part of a conditional use permit decision may be appealed as provided in Section 17.88.140. (Ord. 95-21 § 3 (part): Ord. 86-10 § 7 (part): Ord. 79-4 § 1 (4.133) (6))

Chapter 17.50

DEVELOPMENT REQUIREMENTS FOR POTENTIAL GEOLOGIC HAZARD AREAS

Sections:

17.50.010 Purpose.
17.50.020 Applicability.
17.50.030 Procedure.
17.50.040 Reports and plans required.
17.50.060 Disclaimer of liability.
17.50.070 Master hazards map.

17.50.010 Purpose.

The purpose of this chapter is to minimize building hazards and threats to life and property that may be created by landslides, coastal erosion, weak foundation soils and other hazards as identified and mapped by the city. This purpose is achieved by basing city decisions on accurate geologic and soils information prepared by a registered geologist and requiring the application of engineering principles in any construction that occurs where such studies indicate potential hazards. (Ord. 79-4 § 1 (4.110) (1))

17.50.020 Applicability.

The following are potential geologic hazard areas to which the standards of this section apply:

A. In any area with an average slope of twenty percent or greater;

B. In areas of potential landslide hazard, as identified in the city master hazards map and comprehensive plan;

C. In areas abutting the oceanshore, or velocity zone flood hazard, as identified on the city's FIRM maps;

D. In areas identified by the soil survey of Clatsop County, Oregon as containing weak foundation soils; or

E. In open sand areas regardless of the type of dune or its present stability, and conditionally stable dunes not located in a velocity flood hazard zone, as identified on the city's FIRM maps, which in the view of the building official have the potential for wind erosion or other damage. (Ord. 92-11 § 60: Ord. 79-4 § 1 (4.110) (2))

17.50.030 Procedure.

The requirements of this section shall be met prior to the issuance of a building permit. The city may require that the requirements of this section be met in conjunction with a request for the approval of a setback reduction, variance, conditional use, design review request, preliminary subdivision proposal, major partition request, minor partition request and preliminary planned development request. (Ord. 92-11 § 61: Ord. 79-4 § 1 (4.110) (3))

17.50.040 Reports and plans required.

A. Geologic Site Investigation Report.

1. A geologic site investigation report shall be prepared by a registered geologist or engineering geologist. The report is to be prepared in conformance with the city's site investigation report checklist.

2. Where recommended by the geologic site investigation report, or required by the building official, an engineering report prepared by a registered civil engineer shall be

prepared. The report shall discuss the engineering feasibility of the proposed development and include findings and conclusions for: the design and location of structures; the design and location of roads; the design and location of utilities; land grading practices, including excavation and filling; stormwater management; and vegetation removal and replanting.

3. The burden of proof shall be upon the applicant to show construction feasibility. A proposed use will be permitted only where:

a. The geologic site investigation report indicates that there is not a hazard to the use proposed on the site or to properties in the vicinity; or

b. The geologic site investigation report and engineering report specifies engineering and construction methods which will eliminate the hazard, or will minimize the hazard to an acceptable level.

4. The standards and recommendations contained in the geologic site investigation and engineering report, upon acceptance by the building official, shall become requirements of any building permit that is issued.

5. The building official may have the geologic site investigation report, or the engineering report reviewed by an independent expert of his choosing. Such a review may address either the adequacy or completeness of the site investigation, or the construction methods recommended in the engineering report. The applicant shall pay for the cost of the review.

6. A geologic site investigation report shall remain valid for a period of not more than five years from the date of its preparation. The continued reliance on a geologic site investigation report that is more than five years old requires the following additional new information:

a. An onsite re-inspection of the site by a qualified individual to determine if there has been any change in circumstances.

b. If no change in circumstances is found, a short report noting or including:

I. A description of site conditions and any changes between the date of the original geologic site investigation report and the date of the re-inspection;

II. Any additional maps, aerial photographs or other documents consulted; and

III. Conclusions regarding the accuracy of the original geologic site investigation report.

c. If a change in circumstances is noted, the information in subsection (b) of this section shall be provided along with:

I. Additional field data needed to verify and document any change in the status of the area;

II. Revised mapping;

III. Data, documentation, and other information as needed to define the existing geologic condition of the property; and

IV. Revised recommendations and conclusions based on the changed circumstances applicable to the property. (Ord. 08-1 § 43; Ord. 98-5 §§ 2, 3; Ord. 92-11 § 62: Ord. 79-4 § 1 (4.110) (4))

17.50.060 Disclaimer of liability.

The degree of protection from problems caused by geologic hazards which is required by this chapter is considered reasonable for regulatory purposes. This chapter does not imply that uses permitted will be free from geologic hazards. This chapter shall not create a liability on the part of the

city or by any officers, employee or official thereof for any damages due to geologic hazards that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 79-4 § 1 (4.110) (7))

17.50.070 Master hazards map.

A map shall be maintained in the city hall delineating areas of natural hazards, as required by the comprehensive plan. The map shall be updated periodically in order to contain up-to-date information on mass movement, slumping, weak foundation soils or other hazards. Flood hazards shall be indicated by the city's flood insurance rate map. (Ord. 79-4 § 1 (4.110) (8))

Chapter 17.52

DUNE CONSTRUCTION STANDARDS

Sections:

17.52.010 Purpose.
17.52.020 Wind erosion prevention plan required.
17.52.030 Vegetation removal—Restricted.
17.52.040 Sand removal—Restricted.
17.52.050 Topographic modification—Restricted.
17.52.060 Geological site investigation—Required.
17.52.080 Performance bond.

17.52.010 Purpose.

It is the intent of the dune construction standards to regulate activities associated with the construction of dwellings or commercial buildings, where permitted, in dune areas in order to minimize damage to the dune forms and to adjacent property. The following sections shall apply to developments in dune areas. (Ord. 94-08 § 11: Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (part))

17.52.020 Wind erosion prevention plan required.

Before a building permit is issued for the construction of a dwelling or commercial building which involves the removal of vegetation in areas of sand soils, a satisfactory wind erosion prevention plan shall be submitted to the building official. The plan shall provide for temporary and permanent sand stabilization. The plan shall return the area to its original level of stability or further increase the area's stability. This plan can be a report indicating what types of vegetation will be planted, approximately when planting will occur, how vegetation will be preserved and other relevant techniques being used to prevent wind erosion. (Ord. 94-08 § 12: Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (1))

17.52.030 Vegetation removal—Restricted.

Removal of vegetation in areas of sandy soils shall be kept to the minimum required for building placement or other valid purposes. Removal of vegetation shall not occur more than thirty days prior to grading or construction. Permanent revegetation shall be started on the site as soon as practical. (Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (2))

17.52.040 Sand removal—Restricted.

Sand removal shall be limited to that necessary for construction of permitted structures on the site or for eliminating hazards identified in the wind erosion prevention plan. Adequate consideration shall be given to removing sand from the least sensitive locations. Disturbed areas shall be properly revegetated unless building is done thereon. (Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (3))

17.52.050 Topographic modification—Restricted.

Developments shall result in the least topographic modification of the site that is practical. (Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (4))

17.52.060 Geological site investigation—Required.

Site specific investigations by a registered geologist shall be required prior to the issuance of a building permit in open sand areas, property with slopes of twenty percent or

more or other sites which the building official determines may have significant potential for wind erosion or other hazards. The report shall include the history of erosion or other hazards in the vicinity of the site, a map of areas in the vicinity of the site with recent evidence of erosion, a presentation of potential adverse effects of the development, recommendations on where structures should be located, suggestions on the type of protection required for the proposed use and nearby property, and other material required by the building official. (Ord. 94-08 § 13: Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (5))

17.52.080 Performance bond.

The building official may require that the developer post a performance bond to insure that safeguards recommended by either the wind erosion plan or the site investigation are provided or implemented. (Ord. 86-10 § 5 (part): Ord. 79-4 § 1 (4.120) (7))

Chapter 17.54

ACCESSORY USES GENERALLY

Sections:

17.54.010	**Compliance with principal use requirements.**
17.54.020	**Fences.**
17.54.030	**Accessory structure or building.**
17.54.040	**Home occupations—Type I.**
17.54.045	**Home occupations—Type II.**
17.54.050	**Microwave receiving dishes.**
17.54.060	**Amusement devices.**
17.54.080	**Accessory dwelling.**

17.54.010 Compliance with principal use requirements.

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the limitations set forth in Sections 17.54.020 through 17.54.060. (Ord. 86-16 § 4 (part): Ord. 79-4 § 1 (4.010) (part))

17.54.020 Fences.

Fences shall be subject to the following standards:

A. In any required front yard, fences shall not exceed three and one-half feet in height except that an entry area or arbor with a maximum height of eight feet may be permitted where: its length is no more than twenty percent of the site frontage, up to a maximum of ten feet, and its depth is no more than five feet; the structure is part of a fence or constitutes a pedestrian entry;

the structure is constructed of wood; and the structure is not located in a required clear-vision area. The height of an entry with a pitched roof shall be measured as the average of its peak and eave. Fences located in the required clear-vision area, as defined by Section 17.90.040, shall not exceed a height of three feet;

B. In any rear or side yard, fences shall not exceed six feet in height. Fences located within the required clear vision area, as defined by Section 17.90.040, shall not exceed a height of three feet;

C. For lots abutting the oceanshore, any fence located within a required ocean yard shall not exceed a height of two and one-half feet;

D. Fences of any height may be located in areas that are not a required yard. Fences over six feet in height shall require a building permit;

E. All fences or portions thereof, shall be located or constructed in such a way as not to prevent access to abutting properties for building maintenance or fire protection purposes or shall not obstruct significant views of the ocean, mountains or similar features from adjacent buildings;

F. The height of a fence shall be measured from the existing grade where the fence is located. The "existing grade" is defined as the surface of the ground, prior to any alterations;

G. In residential zones, fences shall not make use of barbed wire or other sharp or otherwise dangerous construction material. In other zones, barbed wire may be permitted where required for security reasons and where no other reasonable alternatives are available.

H. Notwithstanding the provisions of subsections A and B, a fence of up to seven feet in height may be permitted in conjunction with a community garden so long as any portion of the fence located within the required clear vision area, as defined by Section 17.90.040, does not exceed a height of three feet. (Ord. 09-4 § 15; Ord. 93-26 § 1; Ord. 93-22 § 1; Ord. 92-11 § 48: Ord. 89-3 § 1 (part); Ord. 86-16 § 4 (part): Ord. 79-4 § 1 (4.010) (1))

17.54.030 Accessory structure or building.

A. Structures and buildings accessory to a residential use shall comply with all yard requirements except that accessory structures and buildings may be located in the rear yard where a Type 3 development permit is issued for pursuant to Section 17.92.010. Structures and buildings six feet in height or less do not require a development permit. Structures and buildings accessory to a residential use located in the required rear yard shall comply with the following standards:

1. The structures or buildings do not have a total area of more than one hundred twenty square feet; and

2. The structures or buildings are not closer than five feet to the rear property line; and

3. The structures or buildings do not exceed twelve feet in height, measured as the vertical distance from the average exiting grade to the highest point of the roof surface; and

4. The structures or buildings are located in such a way as to not be detrimental to abutting property and shall not obstruct views from adjacent buildings.

B. Structures or buildings, more than one hundred twenty square feet in size, accessory to a residential use shall not be metal clad (metal roofs are permissible).

C. Structures or buildings accessory to a commercial, industrial or institutional use shall comply with all yard requirements.

D. A guest house may be maintained accessory to a dwelling provided that there are no kitchen facilities in the guest house. (Ord. 08-1 §§ 44, 45; Ord. 02-17 § 1: Ord. 97-29 § 1; Ord. 92-11 § 49; Ord. 90-10 § 1 (Appx. A § 32); Ord. 89-28 § 2; Ord. 86-16 § 4 (part): Ord. 79-4 § 1 (4.010) (2))

17.54.040 Home occupations—Type I.

A Type I home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:

A. No person, other than members of the family residing in the dwelling, shall be employed on the premises of the home occupation;

B. The home occupation may be carried out in a dwelling or in an accessory building. However, not more than twenty-five percent of the gross floor area of the dwelling unit and an accessory structure utilized for the home occupation shall be used to conduct the home occupation;

C. Any structural alteration, or exterior modification of a dwelling, in order to accommodate a home occupation, shall be reviewed by the design review board in accordance with the procedures of Section 17.44.040. The purpose of the review is to determine whether the proposed modification would have an adverse impact on the residential character of the adjacent area. Where the design review board finds that there would be an adverse impact, the proposed alteration or modification shall be denied;

D. The home occupation shall be conducted in such a manner as to give no permanent exterior evidence of the conduct of a home occupation, other than a sign as provided by Chapter 17.56;

E. Retail sales of goods must be entirely accessory to any service provided by the home occupation, e.g. hair care products sold in conjunction with a beauty salon;

F. Home occupations shall emit no noise, air pollution, waste products or other effects potentially detrimental to the neighborhood beyond those emanating from a dwelling;

G. The home occupation shall generate no more than eight vehicle trips a day (Chapter 17.04 defines a vehicle trip as a single one direction vehicle movement to a particular destination);

H. No exterior storage of materials is permitted;

I. Commercial vehicle traffic generated by the home occupation shall be limited to two-axle vehicles, except that one round trip by a larger commercial vehicle is permitted in a calendar year.

J. Any home occupation authorized under the provisions of this section shall be open to inspection and review at reasonable times by code enforcement personnel for the purpose of verifying compliance with the provisions of this section or the conditions of approval.

K. A home occupation approval may be revoked by the planning director upon find-

ing that the applicant provided false information, that activities related to the home occupation are inconsistent with the standards of this section, or that activities related to the home occupation are inconsistent with conditions of approval. The planning director's decision may be appealed to the planning commission in accordance with the provisions of Section 17.88.140. No aspect of this section shall prevent enforcement of violations as otherwise provided for by the zoning code or the Cannon Beach Municipal Code. (Ord. 03-8 §2; Ord. 97-6 § 16: Ord. 90-10 § 1 (Appx. A § 33): Ord. 86-16 § 4 (part): Ord. 79-4 § 1 (4.010) (3))

17.54.045 Home occupations—Type II.

A Type II home occupation, when conducted as an accessory use to a dwelling in a residential zone, shall be subject to the following limitations:

A. No more than one person, other than members of the family residing in the dwelling, shall be employed on the premises of the home occupation;

B. The home occupation may be carried out in a dwelling or in an accessory building. However, not more than twenty-five percent of the gross floor area of the dwelling unit and an accessory structure utilized for the home occupation shall be used to conduct the home occupation;

C. Any structural alteration, or exterior modification of a dwelling, in order to accommodate a home occupation, shall be reviewed by the design review board in accordance with the procedures of Section 17.44.040. The purpose of the review is to determine whether the proposed modification would have an adverse impact on the residential character of the adjacent area. Where the design review board finds that there would be an adverse impact, the proposed alteration or modification shall be denied;

D. The home occupation shall be conducted in such a manner as to give no permanent exterior evidence of the conduct of a home occupation, other than a sign as provided by Chapter 17.56;

E. Retail sales of goods must be entirely accessory to any service provided by the home occupation, e.g. hair care products sold in conjunction with a beauty salon;

F. Home occupations shall emit no noise, air pollution, waste products or other effects potentially detrimental to the neighborhood beyond those emanating from a dwelling;

G. The home occupation shall generate no more than eight vehicle trips a day (Chapter 17.04 defines a vehicle trip as a single one direction vehicle movement to a particular destination);

H. No exterior storage of materials is permitted;

I. Commercial vehicle traffic generated by the home occupation shall be limited to two-axle vehicles, except that one round trip by a larger commercial vehicle is permitted in a calendar year.

J. Any home occupation authorized under the provisions of this section shall be open to inspection and review at reasonable times by code enforcement personnel for the purpose of verifying compliance with the provisions of this section or the conditions of approval.

K. A home occupation approval may be revoked by the planning director upon finding that the applicant provided false information, that activities related to the home occupation are inconsistent with the standards of this section, or that activities related to the home occupation are inconsistent with conditions of approval. The planning director's decision may be appealed to the planning commission in accordance with the provisions of Section 17.88.140. No aspect of this section shall prevent enforcement of violations as otherwise provided for by the zoning code or the Cannon Beach Municipal Code. (Ord. 03-8 § 3; Ord. 97-6 § 17)

17.54.050 Microwave receiving dishes.

A microwave receiving dish greater than thirty inches in diameter may only be placed in a rear yard, on the ground, and must be screened by landscaping. (Ord. 94-36 § 1: Ord. 92-11 § 51: Ord. 79-4 § 1 (4.010) (5))

17.54.060 Amusement devices.

Amusement devices are permitted only as an accessory use to commercial uses and tourist accommodations. Such amusement devices shall conform to the following requirements:

A. No more than four amusement devices are permitted at any business location. For the purpose of this section, business location is defined as a building, or portion of a building, where a business having amusement devices is operated pursuant to a city business license and where that business does not have direct access by means of an opening to another business in that building. Where a business does have direct access to another portion of a building using an access other than a common corridor, the businesses shall be considered one business location for the purposes of this section.

B. The holder of the city business license for the business location must also be the holder of the state amusement device license, issued pursuant to ORS 320.005 through 320.990, for the amusement devices at that location.

C. All amusement devices must be confined to a business location and may not be placed in portions of buildings that have common entry or exit areas, halls or walkways, restrooms or similar public areas.

D. Business locations that are not in conformance with the requirements of subsections A through C of this section shall be brought into compliance within thirty days of the effective date of the ordinance codified in Section 17.44.060. (Ord. 88-12 § 4: Ord. 79-4 § 1 (4.010)(6))

17.54.080 Accessory dwelling.

Accessory dwellings, where permitted by the zone, shall conform to the following standards:

A. No more than one accessory dwelling shall be provided on a lot.

B. The accessory dwelling shall contain an area of no more than six hundred square feet.

C. New dwellings that contain an accessory dwelling, or the exterior modification of an existing dwelling necessary to create an accessory dwelling, shall be subject to the design review requirements of Chapter 17.44.

D. An accessory dwelling shall be provided with one additional off-street parking

space in addition to the two off-street parking spaces required for the dwelling.

E. A manufactured dwelling shall not be used as an accessory dwelling.

F. An accessory dwelling shall not be provided in conjunction with a duplex, triplex or multiple-family dwelling.

G. An accessory dwelling shall not be permitted on a lot that contains a guest house.

H. An accessory dwelling to be provided in conjunction with a dwelling that is used as a home occupation shall be reviewed as a conditional use.

I. A new detached accessory dwelling shall comply with the setback requirements of the zone in which it is located. The provisions of Section 17.54.030(A) are not applicable to an accessory dwelling.

J. The property owner shall annually submit a notarized sworn statement that the accessory dwelling has been rented exclusively for periods of thirty calendar days or more.

K. The accessory dwelling shall remain in the same ownership as the primary dwelling. The accessory dwelling shall not be sold as separate real or personal property. (Ord. 95-8 § 12)

Chapter 17.56

SIGNS

Sections:

17.56.010 Purpose.
17.56.020 Conformance.
17.56.030 Regulations—Generally.
17.56.040 Regulations—Base zone.
17.56.050 Exemptions.
17.56.060 Permits.
17.56.070 Variances.
17.56.080 Nonconforming signs.
17.56.090 Abandoned signs or signs in disrepair.
17.56.100 Administration and enforcement.

17.56.010 Purpose.

The purpose of this chapter is to regulate such factors as the size, number, location, illumination and construction of signs with the intent of safeguarding and enhancing the aesthetic character of the city. (Ord. 89-29 § 2 (part): Ord. 89-3 § 2 (part); Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(1))

17.56.020 Conformance.

No sign may be erected unless it conforms with the regulations of this chapter. Sign permits, as required by Section 17.56.060 must be approved prior to the erection of the sign. (Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(2))

17.56.030 Regulations—Generally.

The following general provisions shall govern all signs, in addition to all other applicable provisions pertaining to signs:

A. Sign Face Area.

1. The area of sign faces enclosed in frames or cabinets is determined by the outer dimensions of the frame or cabinet surrounding the sign face (see Figure 1 of this chapter). Sign area does not include foundations, supports and other essential structures which do not serve as a backdrop or border to the sign. Only one side of a double-faced sign is counted in measuring the sign face area. (To be considered a double-faced sign, the sides of the sign must be flush.)

2. When signs are constructed of individual pieces the sign area is determined by a perimeter drawn around all the individual pieces taken together (see Figure 2 of this chapter).

3. For sign structures containing multiple sign modules oriented in the same direction, the sum of the sign area of the individual sign modules are counted as one sign face (see Figure 3 of this chapter).

4. The area of a sign shall be determined according to the following:

a. Rectangle or square: length times width.

b. Triangle: length times width divided by two.

c. Circle: 3.14 times R squared, where R is the sign's radius.

d. Oval: the area contained within a rectangle whose length times width does not exceed thirty square feet.

e. The city shall measure other sign shapes, not listed above, according to the formula it determines to be most appropriate.

5. Where a business or use has more than one entrance, the business owner shall specify which entrance is the business frontage for the purpose of calculating sign face area.

B. Height of Signs. No freestanding, projecting or awning sign, including supporting structures, shall be more than sixteen feet in height. The overall height of a sign or sign-supporting structure is measured from the existing grade directly below the sign to the highest point of the sign or sign-supporting structure (see Figure 4 of this chapter).

C. Clearances. Clearances are measured from the existing grade directly below the sign to the bottom of the sign structure enclosing the sign face (see Figure 5 of this chapter).

D. Corner Signs. Corner signs facing more than one street shall be assigned to a site frontage by the applicant. The sign must meet all provisions for the site frontage it is assigned to.

E. Sign Placement.

1. Placement. All signs and sign structures shall be erected and attached totally within the site except where permitted to extend into a street right-of-way.

2. Frontages. Signs allowed based on the length of one site frontage may not be placed on another site frontage.

3. Vision Clearance Areas. No sign may be located within a vision clearance area as defined in Section 17.90.040.

4. Vehicle Area Clearances. When a sign extends over a private area where vehicles travel or are parked, the bottom of the sign structure shall be at least fourteen feet above the ground. Vehicle areas include driveways, parking lots and loading and maneuvering areas.

5. Pedestrian Area Clearances. When a sign extends over sidewalks, walkways or other spaces accessible to pedestrians, the bottom of the sign structure shall be at least eight feet above the grade. An exception is provided for a sign that is attached to the structural element associated with a doorway or entry that is less than eight feet above the grade. In this case, the sign shall be placed no lower than the lowest point of the structural element associated with the doorway or entry.

6. Projecting Signs. Signs shall project no more than two feet into a public right-of-way.

F. Sign Lettering. The maximum letter height shall be twelve inches.

G. Signs Not to Constitute a Traffic Hazard. Signs or sign supporting structures shall not be located so as to detract from a motorist's view of vehicular or pedestrian traffic or a traffic sign.

H. Glare. All signs shall be so designed and located so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly-dedicated streets and surrounding public or private property.

I. Prohibited Signs. The following signs are prohibited:

1. Signs that contain flashing elements;

2. Signs that contain moving, rotating or otherwise animated parts;

3. Signs that contain luminescent, fluorescent or phosphorescent paints or paper. This includes paints referred to as day-glo, hot or neon;

4. Signs that contain neon-type lighting, including such signs when located within a building where that sign is visible from the street adjacent to the exterior of the building;

5. Signs that are internally lighted;

6. Signs placed so that the sign extends above a flat roof or the ridge of a pitched roof;

7. In the C1, C2, RM, MP, OSR, IN and PK zones, no devices such as pennants,

streamers, spinners, wind socks or kites, or similar devices which move as a result of air pressure. These devices, when not part of a sign, are similarly prohibited;

8. A public address system, sound system or similar device, either permanently or temporarily installed exterior to a building, whether or not it is used to advertise a business or product, where the sound is audible from a public street or adjacent property;

9. Sandwich board sign;

10. Reader board sign;

11. Bench sign;

12. Wall graphics.

J. Materials.

1. A sign subject to a permit shall meet the material and construction methods requirements of the Uniform Sign Code (1985).

2. Signs shall be constructed of wood or have a wood exterior, or be painted or etched on a window or be part of an awning. Signs consisting of other materials must be approved by the design review board.

3. The supporting structure of a sign shall not exceed the sign's height or width by more than two feet.

K. Maintenance. All signs, together with their supporting structures, shall be kept in good repair and maintenance. Signs shall be kept free from corrosion, peeling paint or other surface deterioration. The display surfaces of all signs shall be kept in a neat appearance.

L. Removal of Abandoned Sign. It is the responsibility of the property owner to remove any abandoned sign within thirty days of the cessation of its use.

M. Permanent Signs. Permanent signs are not allowed on undeveloped sites.

N. Sculpture. Sculpture that represents a business logo shall be considered a sign and shall meet the relevant sign requirements for the site on which is located.

O. Freestanding signs are subject to review by the design review board. The review shall be conducted as a nonhearing item. (Ord. 97-27 § 1; Ord. 97-4 § 1; Ord. 94-20 § 1; Ord. 94-06 §§ 5—7; Ord. 92-11 § 52; Ord. 89-29 § 2 (part): Ord. 89-3 § 1 (part); Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040) (4))

17.56.040 Regulations—Base zone.

A. C1, C2 and RM Zone Sign Requirements. For all uses and lots in the limited commercial (C1), general commercial (C2) and residential motel (RM) zones, the following number, sizes and types of signs are allowed. All allowed signs must also be in conformance with the regulations in Chapter 17.56.030.

1. Total sign square footage permitted.

a. The total square footage of all signage associated with a lot shall not exceed one square foot of sign face area per lineal foot of site frontage.

b. The total square footage of all signage associated with a business shall not exceed one square foot of sign face area per lineal foot of business frontage up to a maximum of thirty-six square feet. Notwithstanding paragraph (a) above, each business is permitted a minimum of twenty square feet of sign face area e.g., there are five businesses located on a lot with fifty feet of site frontage. Paragraph (a) above would limit the total sign face area of all five businesses to no more than fifty square feet. However, this provision ensures that each of the five businesses would be permitted up to twenty square feet.

2. Freestanding Signs. Each lot is permitted one freestanding sign per site frontage. The maximum sign face for a freestanding sign is twenty-four square feet.

3. Signs Attached to Buildings.

a. A business or use shall have no more than one permanent sign, other than a freestanding sign, for each building frontage and the sign must be placed on the corresponding building frontage, e.g., a business with two building frontages cannot place both signs on one of the building frontages.

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b. The maximum sign face area for an individual sign shall be no more than twenty-four square feet or one square foot of sign face area per lineal foot of business frontage, whichever is less.

4. Types of Signs. The following types of signs are permitted: permanent, free-standing, wall, projecting, window, awning, temporary, incidental and lawn signs.

B. Manufactured Dwellings and RV Park (MP), Park Management (PK), Institutional (IN) and Open Space/Recreation (OSR) Zone Sign Requirements. For all uses and lots in the manufactured dwelling and recreational vehicle park (MP), park management (PK), institutional (IN) and open space/recreational (OSR) zones, the following number, sizes and types of signs are allowed. All allowed signs must also be in conformance with the regulations of Chapter 17.66.

1. Total Square Footage Permitted. The total square footage of all signage associated with a lot or business shall not exceed thirty-six square feet of sign face area.

2. Freestanding Signs. Each site is permitted one freestanding sign. The maximum sign face area for a freestanding sign is twenty-four square feet.

3. Signs Attached to Buildings.

a. A business or use shall have no more than one permanent sign, other than a freestanding sign, for each building frontage and the sign must be placed on the corresponding building frontage, e.g., a business with two building frontages cannot place both signs on one of the building frontages.

b. The maximum sign face area of an individual sign is no more than twenty-four square feet or one square foot of sign face per linear foot of business frontage, whichever is less.

4. Types of Signs. The following types of signs are permitted: permanent, free-standing, wall, projecting, window, awning, temporary, incidental and lawn sign.

C. Residential Very Low Density (RVL), Lower Density (RL), Moderate Density Residential (R1), Medium Density Residential (R2), High Density Residential (R3) and Residential-Alternative/Manufactured Dwelling (RAM) Zones Sign Requirements. For all uses and lots in the residential very low density (RVL), lower density (RL), moderate density residential (R1), medium density residential (R2), high den-sity residential (R3) and residential-alter-native/manufactured dwelling (RAM) zones, the following number, sizes and types of signs are allowed. All allowed signs must also be in conformance with the regulations of Chapter 17.66.

1. Total Square Footage Permitted. The total square footage of signage associated with a use or lot shall not exceed ten square feet.

2. Types of Signs Permitted.

a. A use or lot shall have no more than one incidental sign, with an area of no more than two square feet of sign face area.

b. A use or lot shall have no more than two temporary and/or lawn signs and not temporary or lawn sign shall have an area of more than four square feet.

c. The following types of signs are permitted: incidental, wall, projecting, window, temporary, and lawn signs.

D. E and OS Zones Sign Requirements. No sign shall be permitted in the estuary (E) and open space (OS) zones. (Ord. 92-11 § 53; Ord. 90-10 § 1 (Appx. A § 34): Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(5))

17.56.050 Exemptions.

The following signs are exempt from the provisions of this chapter:

A. Signs, other than neon signs, within a building not intended to be visible from the exterior of a building;

B. Signs legally erected in a street right-of-way;

C. Building numbers required by Chapter 15.08;

D. Three flags of national or state governments. (Ord. 94-06 § 8; Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(3))

17.56.060 Permits.

A. Sign Permits Required. A sign permit is required for the erection of any new permanent sign with a sign face area of four square feet or more or the alteration of the structure of an existing permanent sign in the C-1, C-2, RM, MP, PK, IN or OSR zones.

B. Required Information for a Sign Permit. For purposes of review by the city, a scale drawing of the proposed sign shall be submitted. The drawing shall indicate the dimensions of the sign, location of the sign, any structural elements of the proposed sign, the size and dimensions of any other sign(s) located on the applicant's building or property, the color of the sign, the size and type of the sign's letters and the material of which the sign is to be constructed.

C. Sign Permit Fee. The fee for a sign permit is twenty-five dollars. (Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(6))

17.56.070 Variances.

A. Variances to the sign requirements of this chapter may be approved by the planning commission following the procedures of Chapter 17.88 where the planning commission finds that the variance meets the following criteria:

1. The variance would permit the placement of a sign with an exceptional design, style or circumstance;

2. The granting of the variance would not be detrimental to abutting properties;

3. The granting of the variance would not create a traffic or safety hazard.

B. Applications which request a variance based on factors listed in subsection (A)(1) above shall be referred to the design review board for a recommendation on whether the applicable criterion is met. (Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(7))

17.56.080 Nonconforming signs.

For the purposes of this chapter, a nonconforming sign is defined as a sign existing at the effective date of this chapter which could not be erected under the terms of this chapter. The following requirements shall apply to nonconforming signs (the requirements of Section 17.82.040 are not applicable):

A. Any permanent nonconforming sign used by a business or a business complex must be brought into conformance with the requirements of this chapter prior to any expansion or change in use which requires design review or a conditional use permit. No building permit for new construction shall be issued until this provision is complied with.

B. No permanent nonconforming sign may be enlarged in any way.

C. Should any permanent nonconforming sign be damaged by any means to an extent of more than fifty percent of its replacement costs at the time of damage, it

shall be reconstructed in conformity with the provisions of this chapter.

D. Signs other than permanent signs, shall come into conformance with the requirements of the ordinance codified in this chapter, ninety days from the effective date of such ordinance.

E. Signs for which a variance has been granted by the city are exempt from the requirements of subsection A of this section. (Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(8))

17.56.090 Abandoned signs or signs in disrepair.

The city shall notify the owner of the real property where a sign has been abandoned or allowed to fall into disrepair, and shall require reasonable repair, replacement or removal within thirty days. If compliance does not occur, the city is authorized to cause removal or repair of such signs, pursuant to Chapter 8.04. Expenses incurred in the enforcement of this provision shall be paid by the owner of the real property from which it was removed. (Ord. 90-10 § 1 (Appx. A § 35): Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(9))

17.56.100 Administration and enforcement.

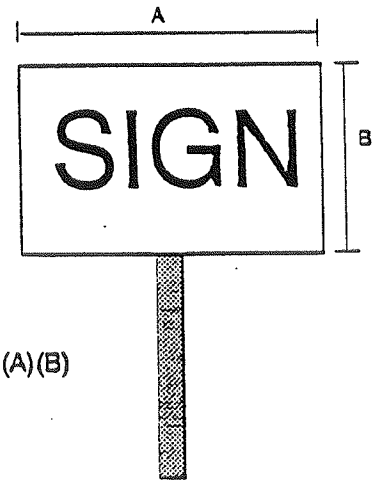
A. The city shall provide each business license applicant with a current copy of its sign requirements.

B. A business license must be obtained before any sign for a business may be erected.

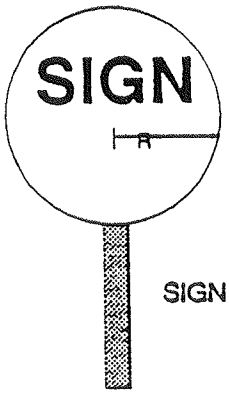
C. Signs may be transferrable if the ownership of a business is changed. (Ord. 92-8 § 1; Ord. 89-29 § 2 (part): Ord. 86-16 § 5 (part): Ord. 79-4 § 1 (4.040)(10))

SIGN FACE MEASUREMENT

FIGURE 1:

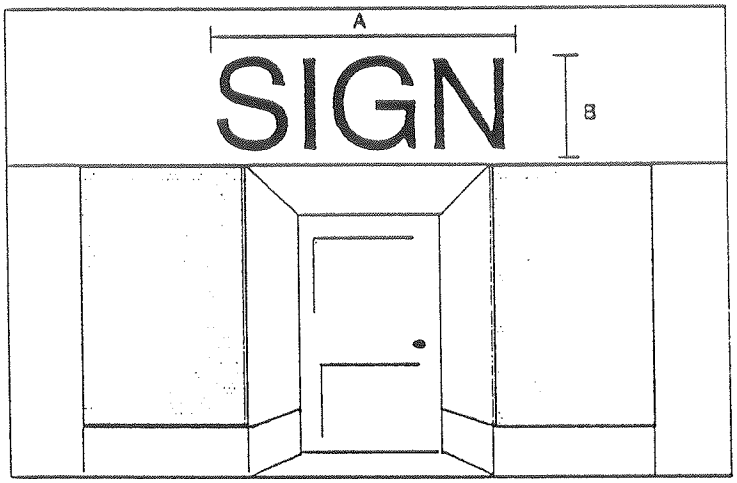


SIGN FACE AREA = (A)(B)



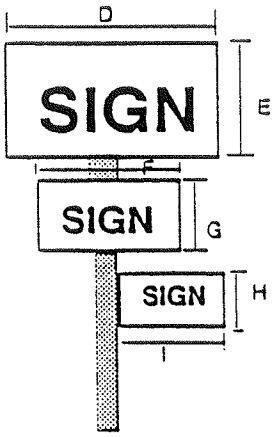
SIGN FACE AREA = $\prod R^2$

FIGURE 2:



SIGN FACE AREA = (A)(B)

FIGURE 3:

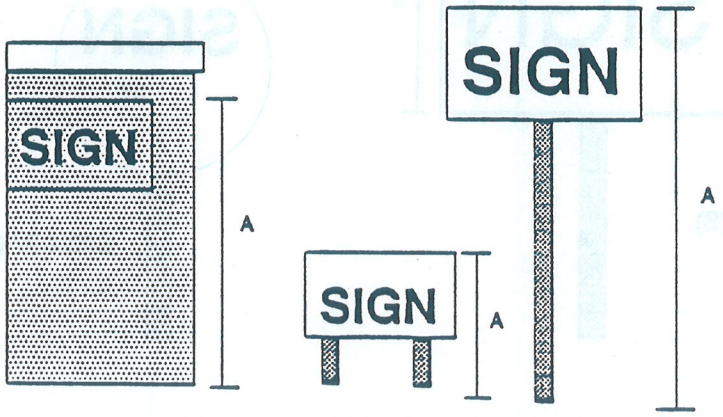


SIGN FACE AREA =
(D)(E) + (F)(G) + (I)(H)

(Cannon Beach 4-93)

SIGN HEIGHT

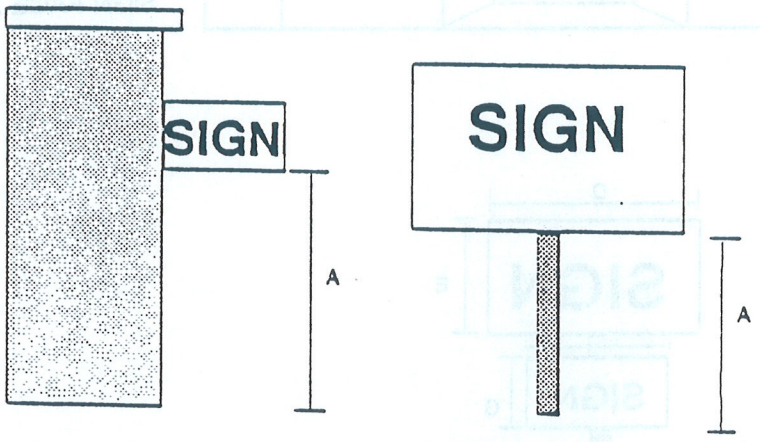
FIGURE 4:



A = HEIGHT

SIGN CLEARANCES

FIGURE 5:



A = CLEARANCE

Chapter 17.60

CLUSTER DEVELOPMENT

Sections:

17.60.010 Provisions established.

17.60.010 Provisions established.

The following provisions have been established in regard to cluster development:

A. In any zone, cluster development may be permitted to maintain open space, reduce street and utility construction and increase attractiveness of development.

B. Cluster development is a development technique wherein structures or lots are grouped together around access courts or cul-de-sacs, or where sizes of lots surrounding structures are reduced while maintaining the density permitted by the comprehensive plan and this title.

C. Clustering may be carried out in the context of a subdivision, major or minor partition, planned development, replatting of existing lots or other review by the planning commission.

D. Single-family attached dwellings may be permitted by the planning commission so long as the overall density of the zone is not exceeded, and with consideration of design review board recommendations.

E. The planning commission (which may use the advice of staff or the design review board) may permit reduction in lot size, setback or other standards so long as the density requirements of the zone are maintained. (Ord. 79-4 § 1 (4.190))

Chapter 17.62

GRADING, EROSION AND SEDIMENTATION CONTROL*

Sections:

17.62.010 Purpose.
17.62.020 Definitions.
17.62.030 Grading and erosion control permit.
17.62.040 Grading standards.
17.62.050 Erosion and sedimentation control standards.

* Prior ordinance history: Ords. 79-4, 86-16, 89-3 and 94-29.

17.62.010 Purpose.

The purpose of this chapter is to: (1) minimize hazards associated with grading; (2) minimize the erosion of land during clearing, excavation, grading, construction and post-construction activities; (3) prevent the transport of sediment into water courses, wetlands, riparian areas, thus protecting water quality and fish and wildlife habitat; (4) prevent the transport of sediment onto adjacent property. (Ord. 98-5 §1 (part))

17.62.020 Definitions.

For the purpose of this chapter, the following definitions shall apply:

"Clearing" means any activity that removes vegetative cover.

"Excavation" means the mechanical removal of earth material.

"Fill" means the deposit of earth material placed by artificial means.

"Grading" means excavation or fill, or any combination thereof, including the conditions resulting from any excavation or fill.

"Regulated activities" means the clearing, grading, excavation, or filling of land.

"Sedimentation" means the depositing of solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity.

"Undeveloped site" means a lot with no permanent structure such as a dwelling or commercial building. (Ord. 98-5 §1 (part))

17.62.030 Grading and erosion control permit.

A. Development Permit Required.

1. Persons proposing to clear, grade, excavate or fill land (regulated activities) shall obtain a development permit as prescribed by this chapter unless exempted by Section 17.62.040. A development permit is required where:

a. The proposed clearing, grading, filling, or excavation is located within one hundred feet of a stream, watercourse or wetland; or

b. The proposed clearing, grading, filling, or excavation is located more than one hundred feet from a stream or watercourse or wetland and the affected area exceeds two hundred fifty square feet; or

c. The proposed volume of excavation, fill or any combination of excavation and fill exceeds ten cubic yards in a calendar year.

2. A development permit for regulated activities in conjunction with a structure requiring a building permit shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(1).

3. A development permit for regulated activities in conjunction with a subdivision or partition shall be reviewed in conjunction with construction drawings as required by Section 16.04.260.

4. A development permit for regulated activities not in conjunction with building permit, subdivision, or partition shall be reviewed pursuant to Section 17.92.010(A), (B) and (C)(2). However, notice to adjacent property owners, as specified by Section 17.92.010(C)(2)(d), is not required.

B. Exceptions. The following are exempt from the requirements of Section 17.62.030(A):

1. Residential landscaping and gardening activities up to two thousand square feet in area;

2. Forest management undertaken pursuant to Section 17.80.170;

3. Construction which disturbs five acres or more. Such activities are regulated by the Oregon Department of Environmental Quality through its storm water program.

C. Information Required for a Development Permit.

1. An application for a development permit for regulated activities subject to the requirements of this chapter shall include the following:

a. A site plan, drawn to an appropriate scale with sufficient dimensions, showing the property line locations, roads, areas where clearing, grading, excavation or filling is to occur, the area where existing vegetative cover will be retained, the location of any streams or wetland areas on or immediately adjacent to the property, the general direction of slopes, the location of the proposed development, and the location of soil stock piles, if any;

b. The type and location of proposed erosion and sedimentation control measures.

2. The city may require a grading plan prepared by a registered civil engineer where the disturbed area has an average slope of twenty percent or greater, the disturbed area is located in a geologic hazard area, or is part of a subdivision or partition. Such a grading plan shall include the following additional information:

a. Existing and proposed contours of the property, at two-foot contour intervals;

b. Location of existing structures and buildings, including those within twenty-five feet of the development site on adjacent property;

c. Design details for proposed retaining walls;

d. The direction of drainage flow and detailed plans and locations of all surface and subsurface drainage devices to be constructed.

3. The city may require that the sedimentation and erosion control plan be prepared by a registered civil engineer where the disturbed area is greater than one acre in size, or the disturbed area has an average slope of twenty percent or greater. (Ord. 98-5 §1 (part))

17.62.040 Grading standards.

A. The review and approval of development permits involving grading shall be based on the conformance of the proposed development plans with the following standards. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards.

1. Cuts.

a. Designs shall minimize the need for cuts;

b. The slope of cut surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a cut at a steeper slope will be stable and not create a hazard to public or private property;

c. Cuts shall not remove the toe of any slope where a potential land slide exists;

d. Cuts shall be set back from property lines so as not to endanger or disturb adjoining property;

e. Retaining walls shall be constructed in accordance with Section 2308(b) of the Oregon State Structural Specialty Code.

2. Fills.

a. Designs shall minimize the need for fills;

b. The slope of fill surfaces shall not be steeper than is safe for the intended use and shall not be steeper than two horizontal to one vertical unless an engineering report finds that a steeper slope will be stable and not create a hazard to public or private property. Fill slopes shall not be constructed on natural slopes steeper than two horizontal to one vertical;

c. Fills shall be set back from property lines so as not to endanger or disturb adjoining property;

d. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials, and scarifying to provide a bond with the new fill;

e. Any structural fill shall be designed by a registered engineer, in accordance with standard engineering practices.

3. Drainage.

a. Proposed grading shall not alter drainage patterns so that additional storm water is directed onto adjoining property;

b. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability. (Ord. 98-5 §1 (part))

17.62.050 Erosion and sedimentation control standards.

A. The review and approval of development permits for regulated activities subject to this chapter shall be based on the conformance of the development plans with the standards of this section. Conditions of approval may be imposed to assure that the development plan meets the appropriate standards. The city may require modifications to the erosion and sedimentation control plan at any time if the plan is ineffective in preventing the discharge of significant amounts of sediment onto surface waters, wetlands, or adjacent property.

B. The design standards and specifications contained in "Soil Erosion Guidance" prepared by the Columbia River Estuary Study Taskforce (CREST), are incorporated into this chapter and are made a part hereof by reference for the purpose of delineating procedures and methods of operation for erosion and sedimentation control measures.

C. Standards.

1. Natural vegetation should be retained and protected wherever possible.

2. Stream and wetland areas shall only be disturbed in conformance with the requirements of Chapter 17.43 Wetland Overlay Zone and Chapter 17.71 Stream Corridor Protection.

3. In dune areas, erosion and sedimentation control measures shall also meet the requirements of Section 17.52.020, wind erosion prevention plan.

4. Sedimentation barriers, such as filter fences and straw bales, shall be placed to control sedimentation from entering streams, wetlands, or adjoining property. The sedimentation barriers shall be installed prior to site clearance or grading activities.

5. Critical areas, as determined by the building official, cleared of vegetation may be required to be temporarily stabilized with mulch, sod, mat or blanket in combination with seeding, or equivalent nonvegetative materials such as mat or blanket if in the opinion of the building official such an area represents an erosion hazard. Prior to the completion of construction, such slopes shall be permanently stabilized by seeding.

6. Storm water inlets and culverts shall be protected by sediment traps or filter barriers.

7. Soil storage piles or fill shall be located so as to minimize the potential for sedimentation of streams, wetlands or adjacent property. Where, in the opinion of the building official, a soil storage area or fill has the potential for causing sedimentation of streams, wetlands or adjoining property, the building official may require temporary stabilization measures.

8. Temporary sedimentation control, not in conjunction with a structure, may be required.

9. Erosion and sedimentation control measures shall be maintained during the period of land disturbance and site development in a manner that ensures adequate performance.

10. The city may require a graveled entrance road, or equivalent, of sufficient length, depth and width to prevent sedimentation from being tracked onto streets.

11. Trapped sediment and other disturbed soils resulting from sediment control measures shall be removed or permanently stabilized to prevent further erosion and sedimentation.

12. Measurable amounts of sediment that leave the site shall be cleaned up and placed back on the site or properly disposed of.

13. All temporary erosion and sedimentation control measures shall remain in place until the disturbed area is stabilized with permanent vegetation.

14. Under no conditions shall sediment from the construction site be washed into storm sewers, drainage ways or streams.

15. A ground cover will be established on exposed soils as soon as possible after finish grading or construction is complete.

16. No more than ten cubic yards of fill shall be placed on an undeveloped site within a calendar year.

17. The city may make periodic inspections to ascertain that erosion and sediment control measures as proposed have been implemented and are being effectively maintained. (Ord. 98-5 § 1 (part))

Chapter 17.64

SETBACK REDUCTION

Sections:

17.64.010 Provisions established.
17.64.020 Conditions.
17.64.030 Compliance with approved plans and conditions of approval.
17.64.040 Time limit for approved setback reductions.

17.64.010 Provisions established.

A. Reduction of setback requirements without variance procedure but following the procedures required by Chapter 17.88 of this code may be approved by the planning commission where the following criteria are met:

1. Total building coverage shall not exceed forty percent;

2. Significant views of the ocean, mountains or similar features from nearby properties will not be obstructed any more than would occur if the proposed structure were located as required by the zoning district;

3. The proposed building location will not interfere with solar access of buildings on adjoining property;

4. It is the purpose of setbacks to provide for a reasonable amount of privacy, drainage, light, air, noise reduction and fire safety between adjacent structures. Setback reduction permits may be granted where the planning commission finds that the above purposes are maintained, and one or more of the following are achieved by the reduction in setbacks:

a. Tree protection,

b. The protection of a neighboring property's views of the ocean, mountains or similar natural features,

c. The maintenance of a stream corridor or avoidance of geologic hazards or other difficult topography,

d. The provision of solar access,

e. Permitting construction on a lot with unusual configuration,

f. Rehabilitation of existing buildings where other reasonable alternatives do not exist,

g. Protection of a wetland or wetland buffer area, or

h. Permitting construction on an oceanfront lot where the effect of the application of the oceanfront setback requirement of Section 17.42.050(A)(6) reduces the depth of the lot located within the required setbacks to less than forty percent of the lot's depth. Under this standard, a reduction in the required setback shall be considered only in the setback opposite of the required oceanfront setback;

5. Adjacent rights-of-way have sufficient width for utility placement or other public purposes;

6. The reduction would not create traffic hazards; or impinge upon a public walkway or trail;

7. Any encroachment into the setback will not substantially reduce the amount of privacy which is or would be enjoyed by an abutting property; and

8. The proposed building location will not interfere with the ability to provide fire protection to the building or adjacent buildings. (Ord. 08-1 § 46: Ord. 94-29 § 4; Ord. 93-12 § 1; Ord. 92-21 § 1; Ord. 92-11 § 66; Ord. 90-10 § 1 (Appx. A § 39); Ord. 89-28 § 4; Ord. 89-3 § 1 (part): Ord. 85-3 § 2: Ord. 79-4 § 1(4.300))

17.64.020 Conditions.

Conditions may be imposed in connection with the granting of the setback reduction where such conditions are deemed necessary to meet the setback reduction standards. (Ord. 08-1 § 46)

17.64.030 Compliance with approved plans and conditions of approval.

Adherence to the submitted plans, as approved, is required. Compliance with conditions of approval is also required. Any departure from approved plans or conditions of approval constitutes a violation of the ordinances codified in this title, unless modified by the planning commission at a public hearing, pursuant to Chapter 17.88. (Ord. 08-1 §46)

17.64.040 Time limit for approved setback reductions.

Authorization of a setback reduction shall be void after one year, or such lesser time period as the approval may specify, unless a building permit has been issued. However, when requested, the planning commission, at a public hearing conducted pursuant to Chapter 17.88, may extend authorization for an additional period not to exceed one year. (Ord. 08-1 § 46)

Chapter 17.66

BUFFERING AND SCREENING REQUIREMENTS

Sections:

17.66.010 Purpose.
17.66.020 Size of buffer.
17.66.030 Type of screening.

17.66.010 Purpose.

The purpose of the buffering and screening requirements is to reduce the impacts of a proposed use on sites of thirty thousand square feet or greater on adjacent zones which provide for different types of uses. (Ord. 92-11 § 67 (1): Ord. 79-4 § 1 (4.400)(1))

17.66.020 Size of buffer.

A. A twenty-foot buffer, measured horizontally from the property line, shall be required between land uses and specific zones as follows:

1. Commercial uses, except motels, when they abut an RVL, RL, R1, R2, R3, RM, RAM, MP, OSR or IN zone;

2. Motels when they abut an RVL, RL, R1, R2, R3, RAM or IN zone;

3. Multifamily structures containing three or more units when they abut an RVL, RL, R1, R2, RAM or OSR zone;

4. Manufactured dwelling subdivision or manufactured dwelling park when it abuts an RVL, RL, R1, R2, R3, RM or IN zone;

5. Governmental uses and structures when they abut an RVL, RL, R1, R2, R3 or RAM zone.

B. The buffer area may only be occupied by screening, utilities and landscaping materials. (Ord. 92-11 § 67 (2): Ord. 90-10 § 1 (Appx. A § 38): Ord. 79-4 § 1 (4.400)(2))

17.66.030 Type of screening.

A. The screening in the buffer area shall consist of at least one row of deciduous or evergreen trees or a mixture of each, not less than eight feet high at the time of planting and spaced not more than fifteen feet apart, and at least one row of evergreen shrubs spaced not more than two and one-half feet apart, which will grow to form a continuous hedge at least five feet in height within three years of planting, with lawns, low-growing evergreen shrubs or evergreen ground cover covering the balance of the buffer.

B. The design review board may reduce or waive the buffering requirement where it finds that due to topography, existing vegetation or other site characteristics a reduced buffer area will achieve the purpose of the visual and physical separation of uses that is the intent of the buffer requirement. Proposals for a reduction in the depth of the buffer area shall include a detailed plan and specifications for the proposed landscaping and screening. (Ord. 92-11 § 67 (3): Ord. 79-4 § 1 (4.400)(3))

Chapter 17.68

MANUFACTURED DWELLING STANDARDS

Sections:

17.68.010 Required standards in the MP zone.
17.68.020 Required standards in zones other than the MP zone.

17.68.010 Required standards in the MP zone.

A manufactured dwelling sited in the MP zone shall comply with the following standards:

A. The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code, as defined in ORS 455.010.

B. A single-wide manufactured dwelling shall be tied down with devices that meet state standards for tie-down devices.

C. The manufactured dwelling shall have continuous skirting.

D. Except for a structure which conforms to the state definitions of a manufactured housing accessory structure, no extension shall be attached to a manufactured dwelling.

E. A storage building of at least fifty square feet shall be provided, unless a similar amount of space is provided in a common storage facility. The building shall be completed within thirty days of placement of the manufactured dwelling.

F. No roof shall be constructed over a manufactured dwelling independent of the structure. Cabanas or awnings are permissible when they meet state standards. (Ord. 94-5 § 9: Ord. 90-10 § 1 (Appx. A § 40): Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (4.500))

17.68.020 Required standards in zones other than the MP zone.

A manufactured home sited in a zone other than the MP zone shall comply with the following standards:

A. The manufactured home shall be multisectional and shall enclose a gross floor area of not less than one thousand square feet.

B. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter.

C. The manufactured home shall have a roof pitch of a minimum of three feet in height for each twelve feet in width.

D. The manufactured home shall have exterior siding that consists of wood, wood composite material or vinyl.

E. The manufactured home shall have a roof constructed of the one of the following materials: composition, tile or shakes.

F. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code, as defined in ORS 455.010.

G. The manufactured home shall have a garage or carport which is constructed of materials similar to the manufactured home.

H. The manufactured home shall incorporate architectural design elements as specified by Section 17.90.065. (Ord. 94-33 § 1; Ord. 94-5 § 10)

Chapter 17.70

TREE REMOVAL

Sections:

17.70.010	Purpose.
17.70.015	Tree removal without a permit prohibited.
17.70.020	Permit issuance—Criteria.
17.70.030	Additional requirements.

17.70.010 Purpose.

A. The purpose of this chapter is to establish protective regulations for trees within the city in order to better control problems of soil erosion, landslide, air pollution, noise, wind and destruction of scenic values and wildlife habitat, as well as the protection of trees as a natural resource which establishes the wooded character of the city.

B. The intent is not to prohibit the removal of trees completely, or to require extraordinary measures to build structures; rather the intent is to stop the wanton and oftentimes thoughtless destruction of that vegetation which has a beneficial effect on the value of property, and on the city in general. (Ord. 96-18 § l(part): Ord. 79-4 § 1 (4.600) (1))

17.70.015 Tree removal without a permit prohibited.

A. No person shall remove a tree (tree removal) without first obtaining a permit from the city pursuant to this chapter, unless the tree removal is exempted by provisions of this chapter. Application for a tree removal permit shall be made on forms prescribed by the city.

B. For the purposes of the chapter, a "tree" is defined as any woody plant having at least one well-defined stem at least six inches in diameter measured at a height of four and one-half feet above the natural grade. All tree measures specified in this chapter shall be measured at a height of four and one-half feet above the natural grade. (Ord. 96-18 § 1 (part))

17.70.020 Permit issuance—Criteria.

The city shall issue a tree removal permit if the applicant demonstrates that one of the following criteria is met:

A. The necessity to remove a tree which poses a safety hazard. The applicant must demonstrate that the condition or location of the tree presents a foreseeable danger to either public safety or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by pruning or treatment of the tree.

B. The necessity to remove a tree damaged by storm, fire, or other injury and which cannot be saved by pruning.

C. The necessity to remove a dying tree. A "dying tree" means that the tree is diseased, infested with insects or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent spread of the infestation of disease to other trees.

D. The necessity to remove a tree(s) in order to construct a structure or development approved or allowed pursuant to the Cannon Beach Municipal Code, including required vehicular and utility access.

E. The necessity to remove a tree where required to provide solar access to a solar energy system where pruning will not provide adequate solar access to permit effective operations of the solar energy system. For the purposes of this subsection "solar energy system" means either: (i) a device employed in the collection of solar radiation for the purpose of heating or cooling a building, the heating of water, or the generation of electricity; or (ii) the south facing windows of a dwelling where such windows constitute fifty percent or more of the building's total window area; or (iii) the roof of a dwelling which has been designed for the collection of solar energy for space heating purposes.

1. The city may require documentation that a device qualifies for an Oregon Department of Energy solar tax credit, or other incentive for the installation of solar devices offered by a utility.

2. No tree measuring more than twenty-four inches in diameter shall be removed for the purpose of obtaining solar access.

F. The need to remove a tree for the health and vigor of the surrounding trees.

G. The tree is to be removed for landscape purposes subject to the following conditions:

1. The tree(s) to be removed under this criterion cannot exceed ten inches in diameter;

2. A landscape plan for the area affected by the tree removal is approved by the city;

3. The landscape plan incorporates a replacement tree(s) for trees to be removed. The replacement tree shall be at least six feet in height or have a two-inch caliper; and

4. The city shall review the property one year after the approval of the tree removal permit. The purpose of the review is to ensure that the approved landscape plan has been implemented. (Ord. 08-8 § 1; Ord. 98-22 § 1; Ord. 96-18 § 1 (part): Ord. 90-10 § 1 (Appx. A § 41); Ord. 79-4 § 1 (4.600) (2))

17.70.030 Additional requirements.

A. Where an applicant identifies the necessity to remove a tree pursuant to Section 17.70.020(A), 17.70.020(B), or Section 17.70.020(C), the application shall include a complete ISA Tree Hazard Evaluation Form prepared by an Oregon Certified Arborist with the tree removal application. An ISA Tree Hazard Evaluation Form prepared by an Oregon Certified Arborist is not required where a tree removal permit proposes the removal of a dead tree pursuant to Section 17.70.030(C), or where a tree removal permit proposes the removal of a tree pursuant to Section 17.70.030(F). Where an applicant identifies the necessity to remove a tree pursuant to Section 17.70.020(F), an Oregon Certified Arborist shall provide a report certifying the need to remove the tree for the health and vigor of surrounding trees.

B. For actions which require the issuance of a building permit, tree removal shall occur only after a building permit has been issued for the structure requiring the removal of the tree(s).

C. An application for the removal of a dead tree does not require an ISA Tree Hazard Evaluation Form prepared by an Oregon Certified Arborist. "Dead" means that the tree is lifeless or less than ten percent of the crown is alive.

D. The retention of trees shall be considered in the design of partitions, subdivisions or planned developments; placement of

roads and utilities shall preserve trees wherever possible. The need to remove trees shall be considered in the review process for partitions, subdivisions or planned developments.

E. The preservation of trees shall provide a basis for consideration of a setback reduction or variance.

F. If the condition of a tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property, a tree removal permit is not required prior to tree removal. However, within seven days after the tree removal, the tree owner shall make application for an after-the-fact permit. For the purposes of this subsection, "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree removal permit can be obtained. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment. Where a tree presents an immediate danger of collapse, a complete ISA Tree Hazard Evaluation Form prepared by an Oregon Certified Arborist is not required. Where a safety hazard exists, as defined by this subsection, the city may require the trees removal. If the tree has not been removed after forty-eight hours, the city may remove the tree and charge the costs to the owner.

G. The city may require the replanting of trees to replace those being removed. Tree replanting shall be in conformance with the city's tree replacement policy.

H. Decisions on the issuance of a tree removal permit may be appealed to the planning commission in accordance with Section 17.88.140(A).

I. For tree removal requests of trees located in a street right-of-way, property owners within one hundred feet of the tree(s) requested for removal shall be notified of the proposed action. In making its decision on such a tree removal request, the city shall consider property owner comments received within ten days of the date of the mailing of the property owner notification. To be considered, property owner comments must address the tree removal criteria of Section 17.70.020. Property owners who have commented on the tree removal request shall be notified of the city's decision and may appeal that decision in accordance with Section 17.70.030(H).

J. Tree pruning does not require a permit. However, the following trees shall be pruned in conformance with International Society of Arboriculture (ISA) standards (1995):

1. Trees more than thirty feet in height;
2. Trees more than thirty inches in diameter;
3. South of Ecola Creek, trees located west of Hemlock Street; and
4. North of Ecola Creek, trees located west of Laurel Street.

K. Tree topping is prohibited except for where: (1) trees have been severely damaged in a storm; and (2) required for utility line maintenance when other pruning practices are impractical. "Tree topping" is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

L. A monthly report on tree removal permit actions shall be made to the planning commission.

M. If a tree is removed without a tree removal permit, a violation may be determined by measuring the stump at the surface of the cut. A stump that is twenty-two inches or more in circumference or seven inches or more in diameter shall be considered prima facie evidence of a violation of this chapter. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation is committed.

N. Penalties.

1. Notwithstanding any other provisions of the code, any party found to be in violation of this chapter shall be subject to a civil penalty of five hundred dollars and the payment of an additional civil penalty representing the value of any unlawfully removed or damaged tree, as determined by an appraisal using the International Society of Arboriculture (ISA) Guide for Plant Appraisal, Eighth Edition, 1992. The unlawful removal of each individual tree shall be a separate offense.

2. A builder, developer, tree service, or any other person holding a city business license who is convicted of violating any provision of this chapter is also subject to a proceeding to consider revocation of their business license, pursuant to Section 5.04.170. (Ord. 08-8 § 2; Ord. 98-22 §§ 2, 3; Ord. 97-30 § 1; Ord. 96-18 § 1 (part): Ord. 90-10 § 1 (Appx. A § 42); Ord. 89-3 § 1 (part); Ord. 79-4 § 1 (4.600) (3))

Chapter 17.71

STREAM CORRIDOR PROTECTION

Sections:

17.71.010 Purpose.
17.71.020 Applicability.
17.71.030 Stream buffers—Established.
17.71.040 Uses and activities permitted.
17.71.050 Uses and activities prohibited.
17.71.060 Standards.
17.71.070 Stream buffer reduction—Consideration of.

17.71.010 Purpose.

The purpose of this chapter is to establish regulations which will preserve, to the maximum extent possible, the city's streams in their natural state. (Ord. 94-30 § 2 (part))

17.71.020 Applicability.

The regulations of this chapter shall apply to the following streams identified in the Cannon Beach wetland study: Sites 1, 2, 3, 4, 5, 6, 7, 12, 14, 15, 17, 18, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 39, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51 and 52. When a stream not inventoried in the Cannon Beach wetland study is identified, it shall become subject to the requirements of this chapter only after an inventory and analysis meeting the appropriate requirements of either Goal 5 or Goal 17 has been completed and adopted as an amendment to the comprehensive plan background report, and the adoption of an ordinance adding the

stream to the list of streams subject to stream corridor protection regulations. (Ord. 97-23 § 1: Ord. 95-15 § 1: Ord. 94-30 § 2 (part))

17.71.030 Stream buffers—Established.

A ten-foot buffer is established on both sides of the streams listed in Section 17.71.020, except that a fifteen-foot buffer on both sides of the stream is established for Site 17, which comprises portions of Logan Creek. The buffer shall be measured from the bank of the stream. (Ord. 94-30 § 2 (part))

17.71.040 Uses and activities permitted.

The following uses and activities may be permitted in the stream buffers established by Section 17.71.030, subject to the issuance of a development permit in accordance with Section 17.92.010, and subject to the applicable standards of Section 17.71.060.

A. Transportation structures including bridges, bridge crossing support structures, culverts and roads;

B. Underground or aboveground utilities;

C. Vegetation management;

D. Bank stabilization;

E. Maintenance and improvement of the stream corridor for storm drainage purposes;

F. Stormwater discharge. (Ord. 94-30 § 2 (part))

17.71.050 Uses and activities prohibited.

The following uses and activities are specifically prohibited in the established stream buffers:

A. Excavation solely for the purpose of removal of gravel, aggregate, sand or other inorganic or organic materials. (Ord. 94-30 § 2 (part))

17.71.060 Standards.

The following standards are applicable to the uses and activities listed in Section 17.71.040.

A. General Standards. Uses and activities in the stream buffer are subject to the following general standards. Uses and activities may also be subject to specific standards in subsequent subsections.

1. Uses and activities in the stream buffer may be approved only after the following list of alternative actions, listed from highest to lowest priority, have been considered:

a. Avoiding the impact altogether by not taking a certain action or parts of an action (this would include, for example, having the use or activity occur entirely outside the stream buffer); or

b. Minimizing impacts by limiting the degree or magnitude of an action and its implementation (this would include, for example, reducing the size of the structure or improvement so that the stream buffer is not impacted).

2. Valid permits from the US Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must be obtained before any of the following activities occur in stream buffers:

a. Placement of fill;

b. Construction of any pile-support structure:

c. Excavation.

3. An erosion control plan which identifies the specific measures to be implemented during and after construction to protect the stream and adjacent upland areas from erosion, siltation and the effects of deleterious construction materials.

B. Transportation structures, including roads, bridges, bridge crossing support structures and culverts, may be permitted subject to the following standards:

1. Roads shall be constructed outside of the stream corridor except for required stream crossings.

2. Streams shall be crossed only where there are no practicable alternatives.

3. In order of preference, the priorities for stream crossing structures are:

a. Bridges; and

b. Bottomless culverts or other similar structures that have a demonstrated ability to provide for fish and wildlife passage.

4. Proposals for stream crossings utilizing a bottomless culvert or other similar structure shallbe reviewed by the Planning Commission, at a public hearing, pursuant to the requirements of Chapter 17.88. The Planning Commission shall approve such a stream crossing only where it finds that:

a. The site topography presents a material difficulty to bridge construction; or

b. Where it can be demonstrated that a bridge crossing would result in more damage to the stream and adjacent wetland and riparian area than a stream crossing utilizing a bottomless culvert or similar structure.

5. The stream crossing shall be designed so that the crossing does not diminish the flood-carrying capacity of the stream.

6. The stream crossing shall be no wider than necessary to serve its intended purpose.

7. Placement of the stream crossing structure shall minimize land clearing and site modification within the stream corridor. All debris, overburden and other construction materials shall be placed on nonwetland areas in a manner which prevents erosion into the stream.

8. Bridge crossing support structures shall not be located in the stream. Excavation for footings, piers and abutments shall be isolated from the wetted perimeter of the waterway by a dike, cofferdam or other structure.

9. Utility crossings shall be combined with stream crossings where feasible.

10. Where feasible, the number of stream crossings shall be minimized through the use of shared access for abutting lots.

11. Where adjacent upland consists of a wetland, applicable standards of Chapter 17.43 shall be complied with.

C. Utilities. Crossing, trenching or boring for the purpose of developing a utility corridor for electric power lines, telephone lines, cable television lines, water lines, wastewater collection lines, and natural gas lines may be permitted subject to the following standards:

1. Utility corridor routes shall be selected to minimize hydraulic impacts on the stream and to minimize vegetation removal.

2. Common trenches, to the extent allowed by the building code, are required in order to minimize disturbance of the stream corridor.

3. Boring under the waterway, directional drilling, or aerial crossings are preferable to trenching. If trenching is the only alternative, it shall be conducted in a dry or dewatered area with stream flow diverted

around the construction area to prevent turbidity.

4. Boring or drilling pits shall be isolated from the flowing waterway.

5. Conduits and pipelines placed under waterways shall be well below the potential scour level of the stream bottom.

6. Materials from trenching, boring or drilling shall be deposited away from the streambank and either returned to the trench as back-fill within a reasonable period of time, or, if other material is to be used to back-fill in the trench, excess material shall be immediately removed from the stream buffer.

7. Topsoil and sod shall be conserved during construction and replaced.

8. For Logan Creek, construction shall be conducted during times approved by the Oregon Department of Fish and Wildlife.

9. Where feasible, construction should occur between June and October. Construction at other times of the year shall utilize more rigorous erosion control methods.

D. Vegetation Management. Vegetation in the stream buffer shall be managed (including planting, mowing, pruning and removal) subject to the following standards:

1. Tree removal meeting the criteria of subsections A and B of Section 17.70.020;

2. Removal of vegetation, except trees covered by Chapter 17.70, pruning of vegetation, or mowing of vegetation where:

a. Necessary for the placement of a use provided for in Section 17.71.040, or

b. Necessary for the maintenance of an existing structure, road or pathway, or

c. Necessary for the maintenance of the stream's water carrying capacity, or

d. Necessary for the placement of a pedestrian pathway to the stream, or

e. Necessary for the removal of blackberry vines, scotch broom, or other noxious vegetation provided that such vegetation is replaced with more suitable vegetation, or

f. Part of an approved restoration, enhancement, or compensatory mitigation plan, or

g. It involves the maintenance of an existing landscaped area, or

h. It is part of a landscape plan, that minimizes adverse impacts on the stream buffer, approved by the city;

Vegetation removal, pruning or mowing permitted under subsections (E)(2)(a) through (h) shall be the minimum necessary and in no case shall it impair any wetland functions and values associated with the stream;

3. Planting new vegetation is permitted where:

a. The planting is part of a landscape plan approved by the city, or

b. The planting is intended to replace dead or damaged plants that were either part of an existing maintained landscaped area or part of the existing native plant community, or

c. The planting is part of an approved restoration, enhancement or mitigation plan;

4. Vegetation management practices will be employed that minimize short-term and long-term adverse impacts on the stream. Impacts to be avoided or minimized include turbidity, erosion, sedimentation, contamination with chemicals, or substantial alteration of any wetland plant communities. The following are not permitted:

alteration of wetland hydrology and the use of herbicides.

E. Structural bank stabilization may be permitted subject to the following standards:

1. The priorities for bank stabilization for erosion control, from highest to lowest, are:

a. Proper maintenance of existing riparian vegetation;

b. Planting of riparian vegetation;

c. Structural stabilization.

Where structural bank stabilization, such as rip-rap, is proposed, evidence shall be provided that a higher priority method of erosion control will not work.

2. Placement of structural bank stabilization material shall be permitted only if:

a. There is a critical need to protect a structure from an erosion hazard;

b. Impacts on adjacent downstream property are minimized;

c. Visual impacts are minimized; and

d. Riparian vegetation is preserved as much as possible.

3. All structural bank stabilization shall be covered with fill material and vegetated with appropriate plant material.

F. Maintenance and improvement of the stream corridor for storm drainage purposes may be permitted subject to the following standards:

1. A stream shall not be culverted except where necessary to protect an adjacent structure from flooding hazards and where it is demonstrated that there are no other alternatives; or where the public works director determines that the placement of the culvert is necessary to implement the city's storm drainage plan.

2. Realignment of an existing stream course may be permitted where the existing stream alignment poses a hazard in terms of: inadequate capacity and a stream realignment is determined to be the optimal solution; existing erosion of slopes or banks pose a hazard to public safety or property; or the existing alignment results in excessive sedimentation of the downstream channel or drainage system.

3. Stream damming may be permitted: where the damming presents a water quality or wetland benefit without adversely impacting upstream flood elevations or instream flow benefits downstream; or as a temporary measure as part of an overall erosion control plan during construction. Within the urban growth boundary, but outside the city limits, stream damming may also be permitted for the creation of a water source where approved by the Department of Water Resources.

G. Stormwater discharge may be permitted subject to the following standards:

1. The method and location of a point-source stormwater discharge shall be approved by the public works director. The discharge point will be sited to minimize impacts on the stream corridor.

2. Stormwater runoff should be directed toward the same drainage system that would have handled the runoff under natural conditions.

3. Uses, such as large parking lots, that could potentially contaminate runoff must include measures to treat runoff before discharging it into a stream. (Ord. 08-7 § 1; Ord. 94-30 § 2 (part))

17.71.070 Stream buffer reduction—Consideration of.

A reduction in the width of the stream buffer established by Section 17.71.030 may be considered in accordance with the requirements of Chapter 17.64, setback reduction. If a setback reduction is granted, the portion of the structure to be located in the stream buffer is to be constructed in a manner that does not require fill. (Ord. 9430 § 2 (part))

Chapter 17.72

HISTORIC SITE PROTECTION

Sections:

17.72.010 Review of construction or development.

17.72.010 Review of construction or development.

The planning commission shall review all construction or development within two hundred feet of the following designated historic site to insure that such development is compatible with its historic character: Les Shirley Park — Lewis and Clark Historic Site. (Ord. 86-10 § 8: Ord. 79-4 § 1 (4.605))

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Chapter 17.74

BED AND BREAKFAST ESTABLISHMENTS

Sections:

17.74.010 Required standards.

17.74.010 Required standards.

Bed and breakfast establishments shall conform to the following standards:

A. The number of guest bedrooms shall be limited to two;

B. The dwelling must be owner occupied;

C. In addition to required parking for the residents, one off-street parking space for each bed and breakfast bedroom shall be provided;

D. Signs shall be limited to one nonilluminated wall sign not exceeding one and one-half square feet in area;

E. A city business license is required. (Ord. 79-4 § 1 (4.800))

Chapter 17.75

WIRELESS COMMUNICATION FACILITIES (WCF)

Sections:

17.75.010 Purpose.
17.75.020 Definitions.
17.75.030 Application requirements.
17.75.040 Development standards.

17.75.010 Purpose.

The purpose of this section is to establish standards that regulate the placement, appearance and impact of wireless communication facilities, while providing residents and the business community with the ability to access and adequately utilize the services that these facilities support. The characteristics of wireless communications facilities are such that they have the potential to impact not only the area immediately surrounding the facility, but also the community as a whole. Because of these potential impacts, the standards are intended to ensure that the visual and aesthetic impacts of wireless communication facilities are reduced to the greatest extent possible. (Ord. 02-1 § 1 (part))

17.75.020 Definitions.

For the purposes of this chapter, the following terms have the following meanings:

"Antenna" means a specific device used to receive or capture incoming and/or to transmit outgoing radio frequency signals, microwave signals and/or communications energy transmitted from, or to be received by, other antennas. Antennas include whip (omni-directional antenna), panel (directional antenna), disc (parabolic antenna) or similar devices.

"Antenna array" means one or more antennas as defined in this chapter. The antenna array does not include the support structure.

"Collocation" means the use of a common WCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology.

"Equipment facility" means any adjacent structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals and other similar structures.

"Height" means the distance measured from ground level to the highest point on the WCF support structure, including the antenna or antenna array.

"Micro antenna array" means an antenna array which consists of antennas equal to or less than six feet in height and with a total area of not more than 6 square feet.

"Mini antenna array" means an antenna array which consists of antennas equal to or less than ten feet in height and with a total area of not more than fifty square feet.

"Monopole" means a structure designed and constructed specifically to support an antenna array consisting of a single vertical metal, concrete or wooden pole, pipe, tube or cylindrical structure which is driven into the ground or mounted upon or attached to a foundation.

"Support structure" means a structure that supports an antenna or antenna array. A support structure includes both an existing building or structure, or a structure designed and constructed specifically to support an antenna array, such as a monopole.

"Wireless communications" means any personal wireless services as defined in the Federal Telecommunications Act of 1996

which includes FCC licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or that may in the future be developed.

"Wireless communication facility (WCF)" means any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of an antenna array, an equipment facility, and a support structure. (Ord. 02-1 § 1 (part))

17.75.030 Application requirements.

The following items shall be provided as part of an application for the placement and construction of a wireless communication facility. These items are in addition to other information that may be required for the appropriate use permit. The planning director may waive an application requirement described herein when it is determined that the information is not necessary to process or make a decision on the application being submitted.

A. A site plan drawn to scale indicating the location of the proposed antenna(s), support structure and equipment facility and relevant dimensions.

B. A photograph of the type of proposed antenna(s), support structure and equipment facility at a site similar to the proposal.

C. The materials being proposed, including the colors of the exterior materials.

D. A study of the visual impact of the proposed wireless communication facility consisting of a graphic simulation illustrating the appearance of the proposed facility as seen from up to five locations within the impacted area. Such locations are to be mutually agreed upon by the planning director and the applicant.

E. A map showing all the applicant's existing and proposed wireless communication facility sites within and adjacent to Cannon Beach, including a description of the wireless communication facility at each location. Adjacent to Cannon Beach is defined as within one mile of the city's urban growth boundary or visible from anywhere within the city's urban growth boundary, whichever is greater.

F. A map indicating the anticipated service coverage area of the proposed wireless communication facility.

G. A collocation feasibility study conducted for an area whose dimensions are pertinent to the proposed service area of the facility being proposed. The study will demonstrate that collocation efforts were made and provides findings on why collocation can or cannot occur.

H. Where less preferred locations or designs, as described in Section 17.75.040 are proposed, a description of other alternatives considered (alternate sites, alternative support structure heights, number of facilities, and equipment utilized) and the reasons why higher priority locations or designs were not selected.

I. A technical review study, if required by the planning director, in conformance with Section 17.75.040(D), Technical Review. (Ord. 02-1 § 1 (part))

17.75.040 Development standards.

Wireless communication facilities are permitted in all zoning districts except the

open space (OS) zone. All wireless communication facilities shall be located, designed, constructed, treated and maintained in accordance with the following standards:

A. Preferred Locations and Designs. The following sites shall be considered by applicants as the preferred order for the location and design of proposed wireless communication facilities:

Preferred Locations and Designs in Priority Order		
Location/Design		Level of Review
1.	Co-location or shared location on an existing wireless communication facility.	Outright use
2.	Micro antenna array attached to an existing structure.	Development permit/no notice
3.	Mini Antenna Array attached to an existing public facility such as a water tower or public building.	Design review
4.	Mini antenna array attached to an existing utility pole located in a street right-of-way.	Design review
5.	Mini antenna array attached to an existing commercial building.	Design review
6.	Mini antenna array attached to a new utility pole within the street right-of-way, up to a height of sixty feet.	Conditional use
7.	Attachment to an existing structure where the height or area of the antennas exceed those of a mini antenna array.	Conditional use
8.	A monopole not located in a street right-of-way, up to a height of sixty feet.	Conditional use

The following additional location criteria apply to, preferred location and design priority 6 through 8 listed above:

1. South of Ecola Creek, areas west of the Hemlock Street right-of-way will be avoided.

2. North of Ecola Creek, areas west of Larch Street should be avoided.

3. Locations on streets where underground utility service has been established should be avoided.

B. General Standards.

1. All facilities shall be installed and maintained in compliance with the requirements of the Building Code.

2. All WCFs shall be designed to minimize their visual impact to the greatest extent feasible.

3. The smallest and least visible antennas, to accomplish the coverage objectives, shall be utilized. Preference will be given to applications which utilize small or minimal size antennas that are less than two square feet in total area or size.

4. Antenna(s) attached to an existing structure shall be placed so as to integrate, as much as possible, with the building's design features and materials. Where appropriate, construction of screening to obscure the facility shall be required. Wall mounted antennas shall be integrated architecturally with the style and character of the structure, or otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. To the extent feasible, wall-mounted antennas should not be located on the front or most prominent facade of a

structure, and should be located above the pedestrian line-of-sight.

5. Colors and materials for WCFs shall be chosen to minimize their visibility. When painted, WCFs shall be painted or textured using colors to match or blend with the primary background of the facility, including the skyline or horizon.

6. Equipment facilities shall be placed in underground vaults wherever feasible. Aboveground equipment, facilities shall meet the setback requirements of the zone in which they are located and shall be reviewed through the design review process of Chapter 17.44 to ensure that they are designed, sited and landscaped to minimize the visual impact on the surrounding environment.

7. An existing utility pole may be replaced by a new utility pole made of wood with an additional height of ten feet, up to a maximum of fifty feet, at the same pole location and still be subject to design review rather than a conditional use. Replacement of an existing utility pole with a metal pole shall be reviewed as a No. 6 siting priority requiring a conditional use permit. A new utility pole placed pursuant to siting priority No. 6 shall be a replacement pole not resulting in an additional utility pole in the street right-of-way.

8. A mini antenna array is the largest antenna array that is allowed on a monopole.

9. Exterior lighting for a WCF is permitted only when required by a federal or state authority.

10. A WCF placed pursuant to this chapter is exempt from the height requirements of the zoning district in which it is located.

C. Modifications to Approved Plans. Proposed modifications to a WCF that requires design review approval shall be evaluated pursuant to Section 17.44.110, Revision of Approved Plans. Proposed modifications to a WCF that requires a conditional use permit shall be reviewed as a conditional use.

D. Technical Review. If determined to be appropriate, the planning director may employ, on behalf of the city, an independent technical expert to review the technical information provided by the applicant in response to Section 17.75.030(G) and 17.75.030(H). The technical review will be used to determine if adequate service coverage can be provided by alternative facility designs and locations not selected by the applicant but which have a higher design priority as described in Section 17.75.040(A), Development Standards, Preferred Locations and Designs. The applicant shall pay the cost of any such study.

E. Abandonment and Obsolescence. A wireless communication carrier shall notify the city of any plans to abandon or discontinue the use of a WCF. The facility shall be removed within ninety days of its abandonment. If the WCF is not removed within ninety days, the city may remove the WCF at the owner's expense. Any WCF that is not operated for a continuous period of twelve months shall be considered abandoned and the owner of such WCF shall remove the WCF within ninety days of receipt of notice from the city notifying the owner of such abandonment, or the city shall remove the facility at the owner's expense. If there are two or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

F. Antenna -Exceptions. The provisions of this chapter do not apply to household radio or television reception antennas, satellite or microwave parabolic antennas not used by wireless communication service providers, and antennas owned and operated by a federally-licensed amateur radio station operator (ham).

G. Nonconforming Wireless Communication Facilities. Wireless communication facilities that were located in conformance with applicable zoning requirements at the time of their construction but which no longer conform to location standards for wireless communication facilities shall be considered pre-existing uses pursuant to Section 17.82.060. (Ord. 09-5 §§ 1—4; Ord. 02-1 § 1 (part))

Chapter 17.77*

SHORT-TERM RENTAL OF DWELLING UNITS

Sections:

17.77.010	**Purpose.**
17.77.020	**Transient rental occupancy requirements.**
17.77.030	**Vacation home rental occupancy requirements.**
17.77.040	**Standards.**
17.77.050	**Violations and penalties.**

* Prior ordinance history: Ords. 92-1, 95-13 and 98-23.

17.77.010 Purpose.

The purpose of this chapter is to protect the character of the city's residential neighborhoods by limiting and regulating the transient rental occupancy and the vacation home rental occupancy of dwelling units. In the adoption of these regulations, the city finds that the rental of dwelling units for periods of thirty days or less has the potential to be incompatible with surrounding residential uses. Therefore, special regulation of dwellings used for transient rental occupancy or vacation home rental occupancy is necessary to ensure that these uses will be compatible with surrounding residential uses and will not materially alter the neighborhoods in which they are located. (Ord. 04-9A § 6 (part))

17.77.020 Transient rental occupancy requirements.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for transient rental occupancy except:

1. A dwelling for which there is a transient rental business license issued by the city on the effective date of the ordinance codified in this chapter and where a transient rental permit has been issued to the owner of that dwelling; or

2. A dwelling which has been approved for use as a bed and breakfast establishment.

B. In the RM and C1 zones, the rental of a dwelling, or portion thereof for transient rental occupancy shall be considered a motel and subject to compliance with the requirements of Municipal Code, Chapter 3.12, Transient Room Tax.

C. The transient rental occupancy of a dwelling unit, as permitted by subsection (A)(1) of this section, shall comply with the standards of Section 17.77.040(A).

D. No person shall be issued a new transient rental permit who holds another transient rental permit. Converting or replacing a transient rental business license that exists on the effective date of said ordinance into or with a transient rental permit is not considered the issuance of a new transient rental permit. For the purposes of the chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his property to a trust where the natural person is the trustor, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a transient rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a transient rental permit.

E. A transient rental permit is issued to a specific owner of a dwelling unit. The transient rental permit shall be revoked when the permit holder sells or transfers the real property which was rented pursuant to the transient rental permit except as provided below. For purposes of this section, "sale or transfer" means any change of ownership during the lifetime of the permit holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse, or transfers on the owner's death to a trust which benefits only a spouse for the spouse's lifetime, or lifetime transfers between spouses. A permit holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to this section so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the transient rental permit held by the transferor shall be revoked.

F. It is the city's intention to maintain ninety-two transient rental permits. When a

transient rental permit is revoked pursuant to subsection E of this section, 17.77.040(A)(1) or 17.77.050, the city will accept a new application for a transient rental permit as follows. The city will maintain a roster of property owners who are interested in obtaining a transient rental permit for their dwelling unit. A property owner may place his or her name on the roster at any time. When an opportunity for a new transient rental permit arises, the city will select a name from the roster by means of a random selection. The person so selected will have one hundred eighty days to obtain a transient rental permit. If the person so selected does not obtain a transient rental permit within one hundred eighty days, a new name will be selected from the roster by random selection.

G. The maximum period of time that a person may hold a transient rental permit obtained by means of random selection, as described in subsection F of this section, is five years. At the end of the five-year period, a new a transient rental permit holder will be selected by means of random selection as described in subsection F of this section.

H. A person who held a transient rental permit obtained by means of random selection as described in subsection F of this section, may not be considered for a new permit in the next lottery following the end of that permit's five-year period. (Ord. 09-1 § 1; Ord. 04-9A § 6 (part))

17.77.030 Vacation home rental occupancy requirements.

A. No person shall occupy, use, operate or manage, nor offer or negotiate to use, lease or rent a dwelling unit in the RVL, RL, R1, R2, R3, MP and RAM zones for vacation home rental occupancy except:

1. A dwelling for which a vacation home rental permit has been issued to the owner of that dwelling;

2. A dwelling which has been approved for use as a bed and breakfast establishment.

B. In the RM and C1 zones, the rental of a dwelling, or portion thereof for periods of less than thirty days shall be considered a motel and subject to the requirements of Chapter 3.12, Transient Room Tax.

C. Vacation Home Rental Occupancy.

1. For the purposes of this subsection, an individual tenancy means a specific person or group of persons who together occupy or are entitled to occupy a vacation home rental.

2. The use of a dwelling for vacation rental occupancy shall not exceed one individual tenancy within fourteen consecutive calendar days

3. An individual tenancy described in Section 17.77.030(C)(2) shall commence on the first day that the person(s) that constitute the individual tenancy occupy or are entitled to occupy the dwelling unit.

4. Occupancy of the vacation home rental, by the individual tenancy, for the minimum fourteen-day period is not required. However, no additional occupancy, with the exception of the property owner, shall occur within the minimum fourteen-day occupancy period that begins on the first day of an individual tenancy.

D. The vacation home rental occupancy of a dwelling unit, as permitted by subsection A of this section shall comply with the standards of Section 17.77.040(B).

E. No person shall hold more than one vacation home rental permit. For the purposes of the chapter, "person" means the natural person or legal entity that owns and holds legal and/or equitable title to the property. If the owner is a natural person, or where the natural person has transferred his property to a revocable trust where the natural person is the trustee, that person can have an ownership right, title, or interest in no more than one dwelling unit that has a vacation home rental permit. If the owner is a business entity such as a partnership, a corporation, a limited liability company, a limited partnership, a limited liability partnership or similar entity, any person who owns an interest in that business entity shall be considered an owner and such a person can have an ownership right, title, or interest in no more than one dwelling unit that has a vacation home rental permit.

F. A vacation home rental permit is issued to a specific owner of a dwelling unit. When the permit holder sells or transfers the real property, the new owner shall apply for and receive a vacation home rental permit before using the dwelling as a vacation home rental.

G. A person who holds a transient rental permit shall not be permitted to hold a vacation home rental permit. (Ord. 06-14 § 1; Ord. 04-9A § 6 (part))

17.77.040 Standards.

A. The transient rental occupancy of a dwelling unit, as permitted by Section 17.77.020, or the vacation home rental occupancy of a dwelling unit, as permitted by Section 17.77.030, shall comply with the following standards:

1. Permit.

a. Any person who is permitted to engage in the rental of a dwelling for transient occupancy, pursuant to Section 17.77.020(A)(1), shall make application to the city, upon suitable forms furnished by the city, for a revocable transient rental permit no later than July 1, 2005. A complete permit application and applicable fee are due no later than on July 1st for the fiscal year commencing with that date. If a

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complete application and applicable fee has not been received by the city by August 1st of the applicable fiscal year, the transient rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the city shall commence the revocation of the permit pursuant to the procedure described in Section 17.77.050(B)(7). Upon issuance, the permit is valid for a period of one year and must be renewed annually. Until July 1, 2005, holders of transient rental business licenses may rent a dwelling for transient occupancy pursuant to that license.

b. Commencing on July 1, 2005, any person who is permitted to engage in the rental of a dwelling for vacation home rental occupancy pursuant to Section 17.77.030(A) shall have obtained a revocable vacation home rental permit before the rental of the dwelling for vacation home rental occupancy. Application for such a permit shall be made upon suitable forms furnished by the city. The permit is valid for one year, or the remainder of the fiscal year in which the permit is issued, and must be renewed annually. Renewal of the permit requires a complete permit application and fee no later than on July 1st for the fiscal year commencing with that date. If a complete application and applicable fee has not been received by the city by August 1st of the applicable fiscal year, the vacation home rental occupancy of the dwelling unit shall be conclusively presumed to be discontinued and the city shall commence the revocation of the permit pursuant to the procedure described in Section 17.77.050(B)(7).

c. The city shall issue the permit where it finds the standards of subsection (A)(2) of this section are met.

2. The issuance of a transient rental permit or a vacation home rental permit shall be subject to the following:

a. Inspection.

i. At the time of application for a new transient rental permit pursuant to Section 17.70.020(F), or a new vacation home rental permit the dwelling unit shall be subject to inspection by the building official or his designee. The purpose of the inspection is to determine the conformance of the dwelling with the requirements of the Uniform Housing Code, 1988 Edition. Prior to the issuance of the transient rental permit or the vacation home rental permit, the owner of the dwelling unit shall make all necessary alterations to the dwelling required by the building official pursuant to the Uniform Housing Code.

ii. Beginning on July 1, 2005, and each year thereafter, there shall be a reinspection of twenty percent of the dwellings that have a transient rental permit so that, over a five-year period, all dwellings that have a transient rental permit will have been reinspected. A condition of granting the annual transient rental permit, where a dwelling has been reinspected, is that the owner of the dwelling shall make any necessary alterations to the dwelling required by the building official pursuant to the Uniform Housing Code. The required alteration shall be completed within thirty days of the building official notification of the required alterations. A failure to complete the alterations within the specified time period may result in the revocation of the permit pursuant to the procedure of Section 17.77.050(B)(7).

iii. Beginning on July 1, 2008, and each year thereafter, there shall be a reinspection of twenty percent of the dwellings that have a vacation home rental permit so that, over a five-year period, all dwellings that have a vacation home rental permit will have been reinspected. A condition of granting the annual vacation home rental permit, where a dwelling has been reinspected, is that the owner of the dwelling shall make any necessary alterations to the dwelling required by the building official pursuant to the Uniform Housing Code. The required alteration shall be completed within thirty days of the building official notification of the required alterations. A failure to complete the alterations within the specified time period may result in the revocation of the permit pursuant to the procedure of Section 17.77.050(B)(7).

b. Occupancy.

i. The maximum occupancy for the dwelling shall be two persons per bedroom and two additional persons (e.g., a two-bedroom dwelling is permitted a maximum occupancy of six persons). The maximum occupancy may be further limited by the requirements of subsection (A)(2)(e) of this section. In no event shall the occupancy of a dwelling exceed twelve persons, unless a transient rental business license issued prior to January 1, 2005 established an occupancy of more than twelve persons. For the purpose of this section, a bedroom is as defined in the CABO One and Two-Family Dwelling Code. For the purpose of establishing occupancy, a person is defined as an individual at least two years of age.

ii. The maximum occupancy on the property shall be that determined by the occupancy of the dwelling unit, per subsection (A)(2)(b)(i) of this section. No recreational vehicle, travel trailer, tent or other temporary shelter shall be used by any tenant on the premises for living or sleeping purposes.

iii. When an owner applies for a building permit for a dwelling that has a transient rental occupancy permit or a vacation home rental permit that will increase the occupancy of that dwelling unit, the owner will provide the city documentation that additional off-street parking as required by subsection (A)(2)(e) of this section will be provided.

c. Transient Room Tax. Compliance with the requirements of the Municipal Code, Chapter 3.12, Transient Room Tax is required.

d. Local Representative.

i. The property owner shall designate a local representative who permanently resides within the Cannon Beach urban growth boundary or a licensed property management company with a physically staffed office within ten vehicular miles of the Cannon Beach urban growth boundary. The owner may be the designated representative where the owner resides in the Cannon Beach urban growth boundary. Where the owner does not reside within the Cannon Beach urban growth boundary, the owner shall designate either a resident in the Cannon Beach urban growth boundary, or a licensed property management company within ten vehicular miles of the Cannon Beach urban growth boundary as his representative.

ii. The property owner or the designated local representative shall maintain a guest and vehicle register for each tenancy of the

transient rental or vacation home rental. The register shall include the names, home addresses and phone numbers of the tenants; the vehicle license plate numbers of all vehicles used by the tenants, and the date of the rental period. The above information must be available for city inspection upon request; failure to maintain or provide the required information constitutes a violation and is grounds for a penalty pursuant to Section 17.77.050.

iii. The local representative must be authorized by the owner of the dwelling to respond to tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the dwelling for transient rental or vacation home rental purposes. The local representative must respond to those complaints in a timely manner to ensure that the use of the dwelling complies with the standards for transient rental occupancy or vacation home rental occupancy, as well as other pertinent city ordinance requirements pertaining to noise, disturbances, or nuisances, as well as state law pertaining to the consumption of alcohol, or the use of illegal drugs.

iv. If the police department is not able to contact the local representative in a timely manner more than twice during the term of the annual permit, this shall be considered a violation pursuant to Section 17.77.050(B) and that violation shall be counted in the number of violations assessed against the permit pursuant to Section 17.77.050(B)(4).

v. The designated local representative may be changed by the permit holder from time to time throughout the term of the permit. However, to change the local representative, the permit holder must file a revised permit application that includes the name, address and telephone number of the new local representative. Failure to notify the city of a change in the local representative constitutes a violation pursuant to Section 17.77.050(B) and that violation shall be counted in the number of violations assessed against the permit pursuant to Section 17.77.050(B)(4).

vi. The city will notify property owners and or residents within two hundred feet of the dwelling of the name, address and telephone number of the owner or the local representative. The purpose of this notification is so that adjacent property owners and residents can contact the responsible person to report and request the resolution of problems associated with the operation of the transient rental or vacation home rental.

e. Parking. One off-street parking space shall be provided for each three persons of dwelling occupancy, as determined by subsection (A)(2)(b) of this section; fractions shall be rounded to the next highest whole number (e.g., a dwelling with a permitted occupancy of eight persons shall provide three off-street parking spaces.) Where the number of parking spaces required by this section cannot be provided on-site, the permitted occupancy of the dwelling shall be reduced to conform to the available amount of off-street parking (e.g., a dwelling with a potential occupancy, pursuant to subsection (A)(2)(b) of this section, of eight persons, which provides only two off-street parking spaces shall have its occupancy limited to six

persons.) Notwithstanding the above provision, each dwelling shall be permitted a minimum occupancy of six persons. No more vehicles shall be parked on the property than there are designated off-street parking spaces.

f. Solid Waste Collection. Weekly solid waste collection service shall be provided during all months that the dwelling is available for transient or vacation home occupancy.

g. Permit Posting. The transient rental permit or vacation home rental permit shall be posted within the dwelling adjacent to the front door. At a minimum, the permit will contain the following information:

i. The name of the local representative and a telephone number where the representative may be reached;

ii. The name and a telephone number where the property owner can be reached;

iii. The telephone number and web site address of the city of Cannon Beach and the Cannon Beach police department;

iv. The maximum number of occupants permitted to stay in the dwelling;

v. The maximum number of vehicles allowed to be parked on the property;

vi. The number and location of on-site parking spaces; and

vii. The solid waste collection day.

B. Variance from the standards of subsections (A)(1) through (A)(7) of this section shall not be permitted. (Ord. 04-9A § 6 (part))

17.77.050 Violations and penalties.

A. The following conduct shall constitute a violation for which the penalties and sanctions specified in Section 17.77.050(B) may be imposed. For purposes of this section, violation shall mean a violation which has been finally adjudicated in a court of competent jurisdiction.

1. Any property owner, or person acting as an agent for the property owner, such as a motel, real estate broker or property manager, who arranges or otherwise provides for the transient occupancy of a dwelling, or the vacation home rental occupancy of a dwelling unit in violation of the provisions of this section; or

2. The owner has failed to comply with the standards of Section 17.77.040; or

3. The owner has failed to pay the transient room tax as required by Municipal Code, Chapter 3.12; or

4. The tenants of the dwelling have created noise, disturbances, or nuisances, in violation of the city municipal code, or violations of state law pertaining to the consumption of alcohol, or the use of illegal drugs.

B. Penalties.

1. Penalties for violations described in subsections (A)(1) through (A)(3) of this section shall be assessed in conformance with Chapter 17.94.

2. Each day in which a dwelling is used in violation of subsections (A)(1) and (A)(2) of this section shall be considered a separate violation of this chapter.

3. Penalties for violations described in subsection (A)(4) of this section shall be assessed in conformance with the city municipal code or applicable state statute.

4. In addition to the penalties described in subsections (B)(1) and (B)(3) of this section, the following sanctions will be imposed:

a. For the first two violations within a twenty-four-month period, the sanction shall be a warning notice.

b. For the third violation within a twenty-four-month period, the sanction shall be a suspension of the permit for thirty days.

c. For the fourth violation within a twenty-four-month period, the sanction shall be a suspension of the permit for ninety days.

d. For the fifth violation within a twenty-four-month period, the sanction shall be a suspension of the permit for one hundred eighty days.

e. For the sixth violation within a twenty-four-month period, the penalty shall be a revocation of the permit.

5. The city shall provide the permit holder with a written notice of any violation of subsection (A)(4) of this section that has occurred. If applicable, a copy of the warning notice shall be sent to the local representative.

6. Pursuant to subsections (B)(4)(b) through (d) of this section, the city shall provide the permit holder with a written notice of the permit suspension and the reason for that suspension. The permit holder may appeal the suspension to the city council by filing a letter of appeal with the city manager within twenty days after the date of the mailing of the city manager's order to suspend the permit. The city manager's suspension shall be stayed until the appeal has been determined by the city council. The city council shall conduct a hearing on the appeal within sixty days of the date of the filing of the letter of appeal. At the appeal, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the council may uphold, modify, or overturn the decision of the city manager to suspend the permit based on the evidence it received.

7. Pursuant to subsection (B)(4)(e) of this section, the city shall provide the permit holder with a written notice that it intends to revoke the permit and the reasons for the revocation. The city council shall hold a hearing on the proposed revocation of the permit. At the hearing, the permit holder may present such evidence as may be relevant. At the conclusion of the hearing, based on the evidence it has received, the council may determine not to revoke the permit, attach conditions to the permit, or revoke the permit.

8. A person who has had a transient rental occupancy permit or a vacation home rental permit revoked shall not be permitted to apply for either type of permit at a later date. (Ord. 04-9A § 6 (part))

Chapter 17.78

OFF-STREET PARKING

Sections:

17.78.010	Requirements generally.
17.78.020	Off-street parking requirements.
17.78.030	Design standards.
17.78.040	Improvement standards.

17.78.010 Requirements generally.

The following general provisions shall govern the application of off-street parking requirements:

A. The provision and maintenance of off-street parking is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking. The subsequent use of property for which the building permit is issued is conditional upon the unqualified continuance and availability of the amount of off-street parking required by this chapter. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing required off-street parking, it shall be a violation of this chapter to begin or maintain such altered use until the required increase in off-street parking is provided.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission based upon the requirements of comparable uses listed.

C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately, unless evidence is presented to the satisfaction of the city that the various uses will not be used simultaneously, thus not requiring that the required amount of off-street parking be the sum of the requirements of the several uses. Where the city determines that various uses will not be used simultaneously, the city shall determine the amount of off-street parking to be provided.

D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking area where the amount of the off-street parking provided in such a joint use parking area is the sum of the required off-street parking for those several uses and where a deed restriction or covenant for the shared parking between the cooperating property owners is recorded with Clatsop County. The deed restriction or covenant shall be approved by the city and shall contain a provision that it cannot be modified or revoked without the approval of the city.

E. Off-street parking spaces for one or two-family dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located no farther than two hundred feet from the building or use they are required to serve measured in a straight line from the building, except that in the downtown commercial area the provisions of Section 17.22.050(E) apply. For uses where parking is permitted within two hundred feet of the intended use, the parking must be located in a zone which permits the use for which the parking is to be provided.

F. Required parking spaces shall be available for the parking of passenger vehi-

cles of residents, customers and employees of the use and shall not be used for storage of vehicles or materials.

G. A plan drawn to scale, indicating how the off-street parking requirements are to be met shall accompany an application for a building permit.

H. It is unlawful to charge a fee of any kind for the use of off-street parking spaces provided to meet the off-street parking requirements specified in Sections 17.78.020 and 17.22.050(J)(1). Where such a fee was charged prior to the effective date of Ordinance 97-12, an amortization period of four months, from the effective date of Ordinance 97-25, is established. At the conclusion of the amortization period, charging a fee of any kind for the use of off-street parking spaces provided to meet the off-street parking requirement specified in Sections 17.78.020 and 17.22.050 (J)(1) shall be prohibited whether or not a fee was charged prior to the adoption of Ordinance 97-12. (Ord. 08-1 § 48: Ord. 97-25 § 1; Ord. 97-12 § 1; Ord. 89-3 § 1 (part); Ord. 86-17 § 2: Ord. 86-16 § 10: Ord. 86-10 § 9: Ord. 84-10 § 2; Ord. 79-4 § 1 (5.030))

17.78.020 Off-street parking requirements.

A. At the time a structure is erected or enlarged or the use of a structure or parcel of land changes, off-street parking spaces shall be provided in accordance with this section and Sections 17.78.010, 17.78.030 and 17.78.040.

B. If parking space has been provided in connection with an existing use, the parking space shall not be eliminated if it would result in less than is required by this section.

C. Where square feet are specified, the area measured shall be gross floor area, where gross floor area means the sum of the gross horizontal area of all floors of a building, as measured from the exterior walls of a building. Where employees are specified, persons counted shall be those working on the premises including the proprietors, during the largest shift at a peak season.

D. In determining the number of parking spaces required by this section, all fractions 0.5 or greater shall be rounded to the nearest whole number. (Example, if it is determined that 5.65 parking spaces are required, six off-street parking spaces must be provided. If it is determined that 5.25 parking spaces are required, five off-street parking spaces must be provided.)

Use	Parking spaces required
Retail and office	Downtown a. For structures existing as of July 6, 1995, existing off-street parking spaces which were required to meet the off-street parking requirement (1.5 parking spaces per four hundred square feet of gross floor area), as per Ordinance 88-6, shall be retained; b. At the time an existing structure containing retail or office use is replaced or enlarged, off-street parking spaces shall be required for the proposed building's gross floor area which exceeds the existing building's gross floor area. The additional required off-street parking spaces shall be provided in accordance with the standard of one parking space per four hundred square feet of gross floor area;

Use	Parking spaces required
	c. At the time a new structure is erected on a parcel of land which did not contain a commercial use as of July 6, 1995, one parking space per four hundred square feet of gross floor area shall be required; d. At the time an existing structure, which was not used for commercial purposes as of July 6, 1995, is converted to retail or office use, one parking space per four hundred square feet of gross floor area shall be required. Midtown and Tolovana Park a. For structures existing as of December 2, 2004, existing off-street parking spaces, which were required to meet the use's off-street parking requirement (1.5 parking spaces per four hundred square feet of gross floor area), as per Ordinance 88-6, shall be retained; b. At the time an existing structure containing retail or office use is replaced or enlarged, off-street parking spaces shall be required for the proposed building's gross floor area which exceeds the existing building's gross floor area. The additional required off-street parking spaces shall be provided in accordance with the standard of one parking space per four hundred square feet of gross floor area; c. At the time a new structure is erected on a parcel of land which did not contain a commercial use as of December 2, 2004, one parking space per four hundred square feet of gross floor area shall be required; d. At the time an existing structure, which was not used for commercial purposes as of December 2, 2004, is converted to retail or office use, one parking space per four hundred square feet of gross floor area shall be required.
Motels and hotels	1-1/4 per unit and 2 for a manager's unit; 1 for each unit of 400 sq. ft. or less, as long as that unit has only 1 bedroom
Recreational vehicle park and campground	1 per employee
Residences	a. Single-family dwelling, two-family dwelling and multiple family dwelling in condominium ownership: 2 per dwelling unit, except that 1 per dwelling unit is required for residences that are provided in conjunction with a commercial use where those residences constitute no more than 50% of the building area. b. Multiple-family dwellings in other than condominium ownership: Studio — 1 per dwelling unit 1 bedroom — 1.25 per dwelling unit 2 bedroom — 1.5 per dwelling unit 3 or more bedrooms — 2 per dwelling unit
Group housing Assisted living Schools, elementary	1 per sleeping room 1 per 2 residential units 1 per employee or teacher
Restaurants, bar, or lounge	Downtown 1.5 parking spaces per four hundred square feet of gross floor, except that one parking space per four hundred square feet of gross floor area shall be required for: (1) additions to a restaurant, bar or lounge after July 6, 1995; or (2) a restaurant, bar or lounge on a parcel of land which did not contain a commercial use as of July 6, 1995; or (3) a restaurant, bar or lounge in a structure which was not used for commercial purposes as of July 6, 1995.

Use	Parking spaces required
	Midtown
	1.5 parking spaces per four hundred square feet of gross floor area shall be required.
	Tolovana Park
	One parking space per one hundred square feet of gross floor area shall be required.
Meeting rooms	One parking space per one hundred square feet of gross floor area shall be required.
Limited manufacturing	1 per employee at the maximum shift.
Transient rental, vacation home rental	Per Section 17.77.040(A)(2)(e)
Similar uses or aggregate	To be evaluated on a case-by-case basis based on above standards.

(Ord. 08-1 § 49: Ord. 04-11 § 5; Ord. 98-17 § 4; Ord. 92-11 § 69; Ord. 89-3 § 1 (part); Ord. 88-6 § 2: Ord. 86-17 § 1: Ord. 86-16 § 8: Ord. 84-10 § 1; Ord. 79-4 § 1 (5.010))

17.78.030 Design standards.

A. The following design requirements shall apply to an off-street parking area consisting of five or more parking spaces:

1. Parking area layouts shall provide parking spaces and aisle dimensions that meet the minimum dimensions contained in Figure A, Minimum Design Requirements.

2. A parking space must be at least nine feet by eighteen feet. Where parallel parking spaces are provided, the minimum dimension is nine feet by twenty-two feet.

3. Parking spaces for disabled persons shall be in accordance with the requirements of the Oregon Structural Specialty Code. These standards control: dimensions of disabled person parking spaces and access aisles; the minimum number of disabled person parking spaces required; location of disabled person parking spaces and circulation routes; curb cuts and ramps including slope, width and location; and signage and pavement markings.

4. All parking areas must be designed so that a vehicle may enter or exit without having to move another vehicle. Stacked or tandem parking is not permitted.

5. At a minimum, ten percent of the area of the parking lot shall be landscaped. In determining the area of the parking lot and required landscaping the minimum area separation between the building and the parking lot described in subsection 6 of this section shall not be included. The landscaped area of the parking lot shall contain at least one tree for every one hundred seventy-five square feet of landscaping provided. Areas that contain a tree shall have a minimum width of five feet. Any landscaped area shall have a minimum area of fifty square feet.

6. An area with a minimum width of five feet shall separate the exterior wall of a building from the parking lot. The separation between the parking lot and the building can consist of landscaping material, a pedestrian walkway, or a combination of the two.

7. Provide separation and screening of the parking area from the street and abutting property. The separation can be provided by either a fence or a landscaped planting area. Where landscaping is utilized, the planting area shall have a minimum width of three feet. The height of the fence or planting shall be sufficient to screen the parking facility, but without encroaching into the required clear vision area.

8. When a parking area serving a multifamily, commercial, industrial or governmental use abuts a residential zone, buffering

meeting the requirements of Chapter 17.66 shall be provided.

9. The number of access points from the adjacent public street(s) to the parking area shall be limited to the minimum that will allow the property to accommodate the anticipated traffic. Access points shall be located on side streets or existing driveways wherever possible so as to avoid congestion of arterial or collector streets. The width of the access point(s) to the parking area shall comply with the standards of Municipal Code Section 12.08.040.

10. Maneuvering space (to prevent backing onto streets) shall be provided for all lots which provide access onto arterial streets (Hemlock Street, Sunset Boulevard, and US Highway 101.)

11. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points fifteen feet from their intersection.

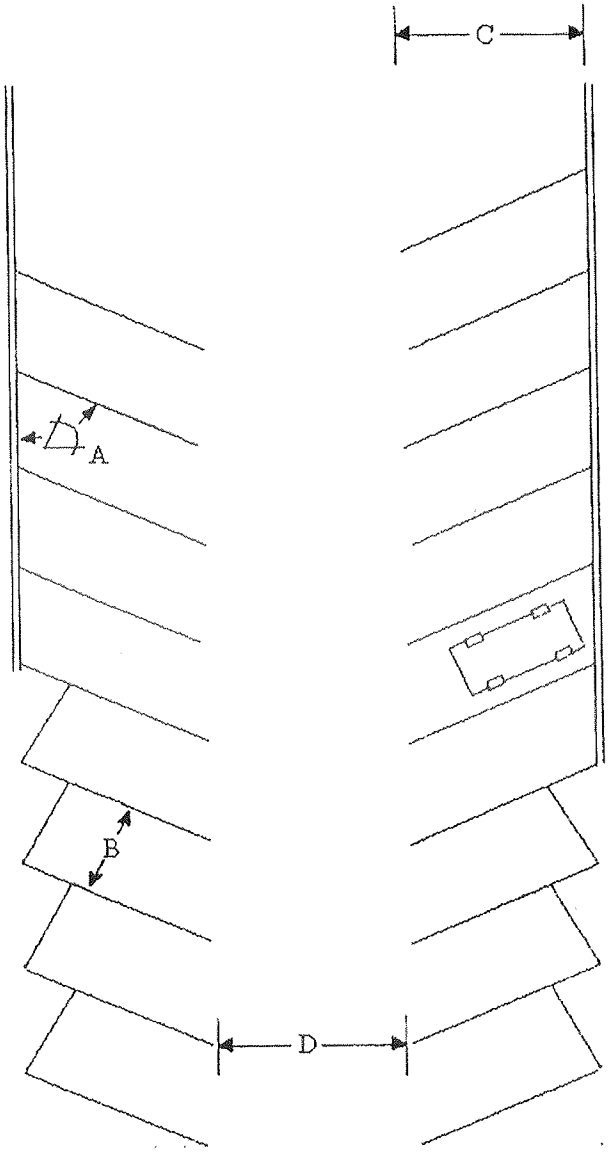
B. Areas for required off-street parking consisting of fewer than five parking spaces, which serve uses other than single-family dwellings, modular housing, manufactured homes, duplexes or triplexes, shall comply with the standards of Section 17.78.030(A)(1)—(4), (7), (9)–(11).

C. Areas for required off-street parking associated with single-family dwellings, modular housing, manufactured homes, accessory dwellings, duplexes and limited triplexes, shall comply with the standards of Section 17.78.030(A)(2), (9), (10).

Parking Minimum Design Requirements

Parking Angle	Standards			
	Minimum Stall Width	Minimum Stall Depth	Minimum Aisle Width	
			One-way	Two-way
0°	22′0″	9′0″	10′10″	18′0″
30°	9′	17′0″	12′0″	20′0″
45°	9′	17′4″	12′3″	20′0″
60°	9′	18′10″	14′4″	20′0″
70°	9′	19′2″	16′0″	21′6″
90°	9′	18′	22′6″	22′6″
A	B	C	D	D

A. Parking Angle
B. Stall Width
C. Stall Depth
D. Aisle Width



(Ord. 08-1 § 50)

*Prior ordinance history: Ords. 86-16, 79-4.

17.78.040 Improvement standards.

A. The following improvement standards shall apply to off-street parking areas, except for those associated with single-family dwellings, modular housing, manufactured homes, accessory dwellings, duplexes and limited triplexes:

1. The surface material shall be an approved hard surface such as asphalt, concrete, or pavers.

2. The parking lot shall be clearly marked as to parking stalls, traffic flow and handicapped spaces.

3. Wheel stops shall be provided for each parking space.

4. Planting areas shall be defined by the use of curbing or other approved material.

5. A stormwater runoff system approved by the public works department shall be installed.

6. No pole mounted lighting shall exceed a height of fifteen feet. All lighting shall be shielded so that direct illumination is confined to the property boundaries of the light source. (Ord. 08-1 § 51)

Chapter 17.80

CONDITIONAL USES

Sections:

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17.80.310 Estuarine fill.
17.80.320 Estuarine bridge crossing.
17.80.330 Estuarine pilings.
17.80.350 Dredging and filling mitigation.

17.80.010 Purpose.

The purpose of the conditional use process is to allow, when desirable, uses that would not be appropriate throughout a zoning district or without the restrictions in that district, but would be beneficial to the city if their number, area, location, design and relation to the surrounding property are controlled. (Ord. 79-4 § 1 (6.010))

17.80.020 Authorization to grant or deny.

A. Uses designated in this chapter as conditional uses may be permitted, enlarged or otherwise altered upon authorization by the planning commission, or denied by the planning commission. This will be done in accordance with the comprehensive plan, standards for the district, standards in Chapters 17.44 through 17.78 and 17.90, additional zoning provisions, and other city ordi-

nance requirements. The burden is upon the applicant to demonstrate that these requirements can be met.

B. In permitting a conditional use or the modification of an existing conditional use that involves a housing type (e.g., planned unit developments, multifamily, manufactured dwelling park, manufactured dwelling subdivision), the planning commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which it considers necessary to protect the best interests of surrounding property or the city as a whole. These additional conditions are as follows:

1. Increasing the required lot size or dimensions;
2. Reducing the required height and size of buildings;
3. Controlling the location and number of vehicle access points;
4. Increasing the required off-street parking spaces;
5. Increasing the required street width;
6. Limiting the number, size, location and lighting of signs;
7. Requiring diking, fencing, screening, landscaping, berms or other items to protect adjacent or nearby areas;
8. Designating sites for open space;
9. Specifying the types of materials to be used;
10. Specifying the time of year the activity may occur;
11. Specifying the type of lighting to be used.

C. In permitting a conditional use, or the modification of a conditional use, other than a housing type, the planning commission may impose, in addition to those standards and requirements expressly specified for that use, other conditions which are necessary to protect the adjacent property, an identified resource, or the city as a whole. Such conditions may include those set out in subdivisions 1 through 11 of subsection B of this section, but are not limited thereto. (Ord. 90-10 § 1 (Appx. A § 47): Ord. 79-4 § 1 (6.020))

17.80.030 Existing conditional uses.

In the case of a use existing prior to its present classification by the ordinance codified in this chapter as a conditional use, any change in use or in lot area or any alteration of a structure shall conform with the requirements dealing with conditional uses. (Ord. 79-4 § 1 (6.030))

17.80.040 Performance bond.

The planning commission may require that the applicant for a conditional use furnish to the city a performance bond up to, and not to exceed, the value of the cost of the required improvements in order to assure that the conditions imposed are completed in accordance with the plans and specifications as approved by the planning commission and that the standards established in granting the conditional use are observed. (Ord. 79-4 § 1 (6.040))

17.80.050 Application—Filing.

A property owner or their designated representative may initiate a request for a conditional use or the modification of any existing conditional use by filing an application with the city using forms prescribed by the city. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1(6.050))

17.80.060 Application—Investigation and reports.

The city manager shall make or cause to be made an investigation to provide necessary information to ensure that the action in each application is consistent with the requirements of this title and shall make a recommendation to the planning commission. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (6.060))

17.80.070 Application—Procedure.

The following procedure is followed in the event of an application for a conditional use:

A. Notice of public hearing shall be in accordance with Sections 17.88.010 through 17.88.040.

B. The planning commission shall review the conditional use application in accordance with Section 17.88.060.

C. The planning commission decision shall be in accordance with Section 17.88.110.

D. Notification of the planning commission decision shall be in accordance with Section 17.88.130.

E. The decision of the planning commission may be appealed in accordance with Sections 17.88.140 through 17.88.190. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (6.070))

17.80.080 Compliance with conditions of approval.

Adherence to the submitted plans, as approved, is required. Compliance with conditions of approval is also required. Any departure from approved plans or conditions of approval constitutes a violation of the ordinances codified in this title, unless modified by the planning commission at a public hearing, pursuant to Chapter 17.80.070. (Ord. 08-1 § 52: Ord. 79-4 § 1 (6.080))

17.80.090 Application—Approval—Time limit.

Authorization of a conditional use shall be void after one year or such lesser time as the authorization may specify unless a building permit has been issued. However, when requested, the planning commission, at a public hearing conducted pursuant to Section 17.80.070, may extend authorization for an additional period not to exceed one year. (Ord. 08-1 § 53: Ord. 79-4 § 1 (6.090))

17.80.100 Application—Refiling limitations.

Applications for which a substantially similar application has been denied shall be heard by the planning commission only after a period of six months has elapsed from the date of the earlier decision. (Ord. 79-4 § 1 (6.100))

17.80.110 Overall use standards.

Before a conditional use is approved, findings will be made that the use will comply with the following standards:

A. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.

B. The use will not create excessive traffic congestion on nearby streets or overbur-

den the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

C. The site has an adequate amount of space for any yards, buildings, drives, parking, loading and unloading areas, storage facilities, utilities or other facilities which are required by city ordinances or desired by the applicant.

D. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.

E. An adequate site layout will be used for transportation activities. Consideration should be given to the suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths or other transportation facilities required by city ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control and emergency vehicle movements.

F. The site and building design ensure that the use will be compatible with the surrounding area. (Ord. 92-11 § 70; Ord. 89-3 § 57; Ord. 79-4 § 1 (6.110))

17.80.120 Specific use standards.

In addition to the overall conditional use standards, the specific use standards of Sections 17.80.130 through 17.80.350 shall also be applied. (Ord. 92-11 § 71: Ord. 79-4 § 1 (6.120))

17.80.130 Animal hospital or kennels.

Animal hospital or kennel pens shall be enclosed to the extent that noise does not affect adjacent property. Kennels shall be connected to city sewers for animal waste disposal. (Ord. 79-4 § 1 (6.140))

17.80.140 Automobile service stations.

Automobile service stations shall be located on a site of at least ten thousand square feet. (Ord. 79-4 § 1 (6.150))

17.80.150 Material, vehicle and parts storage.

Materials, vehicles or parts used in boat building, cabinet, carpentry or other contractor's shops, machine shops or vehicle repair shall be stored in an enclosed structure, or, where that is impractical, behind fences or vegetative buffers. Odors, fumes, sawdust or other emissions shall be controlled so as not to affect adjacent property. Noise standards of the Department of Environmental Quality shall be adhered to. As much tree cover as possible shall be maintained on the property. A buffer, as specified by Chapter 17.66 shall be maintained between the use and adjacent uses or public streets. (Ord. 79-4 § 1 (6.160))

17.80.155 Community garden.

The following specific standards shall apply to a community garden:

A. A site plan will be provided which indicates the location of all anticipated improvements, including the location of storage sheds, compost bins, fencing, and raised beds.

B. Structures such as storage sheds and compost bins shall conform to setback re-

quirements; raised beds may be located in required setback areas as long as they conform to the clear vision area requirements of Section 17.90.040.

C. Fences shall conform to the standards of Section 17.54.020(H).

D. On-site retail sales are not permitted.

E. The land shall be served by a sufficient water supply.

F. The community garden shall be managed by an organization which has an established set of operating rules addressing the governance of the community garden.

G. The planning commission may specify operating hours for community garden activities based on the location of the community garden.

H. Notwithstanding any provision of Section 17.44.020, Applicability, a community garden is not subject to design review, except that any structure of two hundred square feet or more shall be subject to design review as described in Chapter 17.44, Design Review Procedures and Criteria. (Ord. 09-4 § 16)

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17.80.160 Docks.

Single-purpose, private docks shall not be permitted. Floating docks shall not rest on the creek bottom at low tide. Floats shall be adequately secured to the bank. Where floating docks are unfeasible, a fixed dock may be permitted where a finding is made that it is consistent with the resource capability and the purpose of the estuary zone. All docks must have permits from the Division of State Lands and the U.S. Army Corps of Engineers. Navigation or recreational use of the water shall not be impeded. Hydraulic (erosional) effects on adjacent shorelines shall be minimized by design of the dock. A very limited number of common or public docks may be permitted. (Ord. 79-4 § 1 (6.170))

17.80.170 Forest management.

A. Purpose. The purpose of this section is to ensure that forest practices are carried out in a manner that will protect soil integrity, water quality, fish and wildlife habitat, riparian vegetation, significant natural resources, scenic values and adjacent urban uses.

B. Applicability. The following activities are considered forest management practices and are subject to the provisions of this section:

1. Harvesting of trees for commercial purposes including but not limited to falling, bucking, yarding, decking, loading or hauling of such trees;

2. Construction, reconstruction and improvements of roads as part of a forest harvesting operation;

3. Site preparation for reforestation involving clearing or the use of heavy machinery;

4. Clearing of forest land for conversion to a nonforest use;

5. Disposal and treatment of slash;

6. Precommercial thinning.

C. Exceptions. The removal of trees pursuant to Chapter 17.70 is not considered a forest management practice.

D. Forest Management Plan Approval Required.

1. As part of a conditional use application, a forest management plan prepared by a forester shall be submitted.

2. The written forest management plan shall contain specific information applicable to the proposed operation. Elements of the plan shall include, but not be limited to, the location of roads and landings, road and landing design and construction, drainage systems, disposal of waste material, falling and bucking, buffer strips, yarding system and layout, sensitive resource site protection measures and post-operation stabilization measures.

3. The city shall select a forester from its list of foresters to prepare the plan. The applicant shall be billed for the cost of the plan preparation as well as the cost of monitoring the forest management operation.

4. The forest management plan shall conform to the standards of subsection E of this section.

5. In the preparation of the forest management plan, the forester shall consult with state and federal agencies concerned with the forest environment, such as the Department of Fish and Wildlife, to obtain relevant information.

6. The landowner and/or operator shall comply with the approved forest management plan.

7. Modifications to the approved plan shall be reviewed by the planning commis-

sion. Modification of an approved plan shall be required when, based on information that was not available or known at the time of the approval, the forester determines the approved plan will no longer provide adequate protection to the natural resources of the site.

8. The forester shall monitor the forest operation to ensure that it is carried out in accordance with the approved plan. Upon completion of the operation the forester shall prepare a report certifying that the operation was carried out in compliance with the approved plan.

E. Standards. Forest management plans shall be prepared in conformance with the following standards:

1. Only selective harvesting of trees is permitted. The forester shall determine the site's total basal area. Trees with a diameter, measured at breast height, of less than six inches shall not be included in the calculation of the site's basal area. An initial plan, or any subsequent plan, shall propose removing no more than an aggregate of fifty percent of the total basal area existing on the site at the time the initial application for harvesting is submitted to the city. In addition, no more than sixty percent of the site's total number of trees, which have a minimum diameter of six inches at breast height, shall be removed. Trees with a diameter of less than six inches at breast height shall not be removed.

2. A riparian zone shall be maintained adjacent to both class I and class II waters. The width of the riparian zone shall be twenty-five feet on either side of class II waters. The width of the riparian zone shall be fifty feet on either side of class I waters. There shall be no harvesting of trees in the riparian zone. Other activities in conjunction with forest practices, such as road construction, in the riparian zone shall be permitted only where there are no feasible alternatives. The definitions of class I and class II waters shall be those established in the Forest Practices Rules 629-24-101.

3. Existing stream courses shall not be altered.

4. No forest management operations shall occur in identified wetland areas.

5. Where a forest operation is to be located within six hundred feet of a specific site involving a threatened or endangered species (as listed by the U.S. Fish and Wildlife Service or the Oregon Department of Fish and Wildlife) or a sensitive bird nesting, roosting or watering site, a specific habitat-protection plan shall be prepared in consultation with the Oregon Department of Fish and Wildlife.

6. There shall be no subsurface mining as part of a forest operation.

7. Forest practices shall not involve the application of herbicides, insecticides or rodenticides.

8. Slash shall be controlled in a manner that does not require burning.

9. Road construction shall be in accordance with the criteria of the Forest Practices Rules 629-24-521 to 629-24-523 (1990).

10. Harvesting of trees shall be in accordance with the criteria of the Forest Practices Rules 629-24-542 to 629-24-545 (1990).

11. Reforestation of lands intended to continue in forest use shall be stocked according to the levels specified in the Forest Practices Rules 629-24-501 (1990). The forest management plan shall include specified actions necessary for the maintenance of planted trees. Within one year following the harvest on lands not planned for reforestation, adequate vegetative cover shall be

established to provide soil stabilization and to minimize aesthetic impacts within one year following the harvest.

12. No trees shall be harvested within fifty feet of the U.S. Highway 101 right-of-way. Trees located in this area shall not be included in the calculation of the site's initial basal area.

13. Overall conditional use standard, Section 17.80.110(A), shall not be applicable to forest management. (Ord. 94-23 §§ 1, 2; Ord. 90-10 § 1 (Appx. A § 48): Ord. 79-4 § 1 (6.180))

17.80.180 Manufactured dwelling parks.

The following specific standards shall apply to manufactured dwelling parks:

A. A manufactured dwelling park shall conform to state standards in effect at the time of construction;

B. Spaces in manufactured dwelling parks shall be sized as follows:

1. Spaces for double-wide units (twenty-four to twenty-eight feet wide) shall be a minimum of five thousand square feet,

2. Spaces for single-wide units (fourteen to sixteen feet wide) shall be four thousand square feet.

3. Spaces for "park model" units (eight feet wide) shall be three thousand square feet. Park model units are defined as small manufactured dwellings designed for permanent occupancy, and do not include recreational vehicles;

C. Spaces shall be clearly defined and shall be exclusively used for the private use of the tenant of the space.

D. Manufactured dwellings shall be located within their designated spaces, so that the setbacks are:

1. Front yard, fifteen feet,
2. Side yards, five feet,
3. Rear yard, fifteen feet;

E. Manufactured dwellings shall be located at least twenty-five feet from the property lines of the manufactured dwelling park;

F. Manufactured dwellings placed in the manufactured dwelling park shall conform to the provisions of Chapter 17.38, the flood hazard protection standards;

G. Streets in a manufactured dwelling park may be dedicated to the city, or may be retained in private ownership. Private streets shall be constructed to city standards, except that two-way streets may be eighteen feet wide and one-way lanes may be twelve feet wide. Storm drainage facilities shall be installed throughout the manufactured dwelling park. Streets dedicated to the city shall meet city standards. All streets shall be approved by the public works director. Each manufactured dwelling space shall abut a street for a minimum distance of twenty feet;

H. Easements necessary for public utilities and installation of fire hydrants shall be required by the public works director, at appropriate locations;

I. The planning commission may require buffers of sight-obscuring fences, hedges and/or beans, between the manufactured dwelling park and adjacent property, and between potentially conflicting uses such as campgrounds or accessory uses. Buffering may be waived where it is unnecessary due to topographical features or existing tree cover;

J. A minimum of twenty percent of the overall area of the park shall be devoted to common open space, including buffers. Open space may also include playgrounds, natural areas, streams and wetlands, but shall not include individual setback areas, streets or utility areas;

K. Manufactured dwellings shall bear the Oregon Insignia of Compliance and conform to the standards of the Department of Commerce;

L. Manufactured dwellings shall have a continuous skirting of nondecaying, noncorroding material which shall be installed within thirty days of placement of the unit;

M. All manufactured dwellings shall be installed with tie-downs to protect the manu-

factured dwelling against wind and storm damage. Tie-downs shall be installed prior to occupancy of the unit;

N. Manufactured dwellings shall conform to the parking requirements for single-family dwellings, as specified in Chapter 17.78;

O. Signs shall be in conformance with Chapter 17.56. (Ord. 06-9 § 4; Ord. 90-10 § 1 (Appx. A § 49); Ord. 79-4 § 1 (6.185))

17.80.190 Tourist accommodations.

In residential zones, motels or other tourist accommodations shall maintain residential yard requirements or setbacks. Outdoor lighting or signs shall not cast glare onto adjacent residential property or the beach. Traffic ingress and egress shall be onto other than residential streets, except that access points onto major streets shall be minimized. A commercial or recreational use associated with a motel shall be located so as not to adversely affect adjacent property by its hours of operation, noise, traffic generation, signs or lighting. (Ord. 79-4 § 1 (6.190))

17.80.200 Public facilities and services.

The following specific conditional use standards apply to public facilities and services:

A. Public facilities including, but not limited to, utility substations, sewage treatment plants, stormwater and treated wastewater outfalls, submerged cables, sewer lines and water lines, water storage tanks, radio and television transmitters, electrical generation and transmission devices and fire stations shall be located so as to best serve the community or area with a minimum of impact on neighborhoods, and with consideration for natural or aesthetic values. Structures shall be designed to be as unobtrusive as possible. Wherever feasible, all utility components shall be placed underground.

B. Public facilities and services proposed within estuarine areas shall provide findings that:

1. An estuarine location is required and a public need exists, and

2. Alternative nonaquatic locations are unavailable or impractical, and

3. Dredge, fill and adverse impacts are avoided or minimized.

C. Public facilities and services in estuarine areas shall minimize interference with use and public access to the estuary. (Ord. 79-4 § 1 (6.200))

17.80.210 Recreational vehicle parks.

The following specific standards apply to recreational vehicle parks:

A. Recreational vehicle (RV) parks or camping areas shall be in conformance with the standards of the Oregon Health Department;

B. RV parks shall be at least three acres in size;

C. RV parks shall be connected to city services, including sewer, water and storm drainage. Parks shall also be connected to power and communications services. The ratio of lavatories and toilet facilities to RV spaces shall be prescribed by state law;

D. There shall be at least two thousand five hundred square feet of total area per recreational vehicle, overall. Individual RV spaces shall not be less than one thousand five hundred square feet;

E. Streets or private drives and pads shall be surfaced with asphaltic concrete or oil mat surfacing material. Interior streets or private drives shall not be less than twenty feet for two-way streets, or fifteen feet for one-way streets;

F. Buffers of at least fifty feet shall be required in order to separate parks from surrounding residential uses or public streets or roads. A sight-obscuring fence or plantings shall be required except in clear-vision areas;

G. Where existing tree cover is present, it shall be retained on the site. Camping spaces shall be constructed so as not to harm root systems by fill;

H. Camping spaces, restrooms, parking areas and other structures or alterations shall be at least fifty feet from streams or bodies of water to maintain riparian vegetation and the scenic values of the area. Public access shall be maintained to the water;

I. Dumping into the city sewer system of holding tanks containing chemically-treated wastes shall not be permitted.

J. A park trailer may be placed for dwelling purposes subject to the installation of state-approved tie-down devices. The total number of park trailers placed in a recreational vehicle park for dwelling purposes shall not exceed twenty-five percent of the total number of approved recreational vehicle spaces in that park. The minimum area of a recreational vehicle space used for the placement of a park trailer used for dwelling purposes shall be one thousand five hundred square feet. (Ord. 06-9 § 5; Ord. 91-3 § 2; Ord. 90-10 § 1 (Appx. A § 50); Ord. 79-4 § 1 (6.210))

17.80.220 Places of congregation or meeting halls.

The sites of schools, churches, museums, lodges or meeting halls shall be located so as to serve the surrounding area. Traffic will not congest residential streets, the structures will be designed or landscaped so as to blend into the surrounding environment and the activities or hours of operation will be controlled to avoid noise or glare impacts on adjacent uses. (Ord. 79-4 § 1 (6.220))

17.80.230 Shoreline stabilization.

The following specific conditional use standards apply to shoreline stabilization:

A. Beachfront protective structures seaward of the Oregon Coordinate Line, require a permit from the Oregon Parks and Recreation Department and the city. Beachfront protective structures landward of the Oregon Coordinate Zone Line requiring more than fifty cubic yards of material may require a permit under the Oregon Removal Fill Law. All beachfront protective structures landward of the Oregon Coordinate Line require a permit from the city.

B. Shoreline stabilization along the Ecola Creek Estuary requires a permit from the U.S. Army Corps of Engineers, the Oregon Division of State Lands, if it involves more than fifty cubic yards, and the city.

C. The city's review of beachfront protective structures, both landward and seaward of the Oregon Coordinate Line, shall be coordinated with the Oregon Parks and Recreation Department. The city's review of shoreline stabilization along Ecola Creek Estuary shall be coordinated with the U.S. Army Corps of Engineers and the Oregon Division of State Lands.

D. Shoreline Stabilization Priorities.

1. The priorities for shoreline stabilization for erosion control are, from highest to lowest:

a. Proper maintenance of existing riparian vegetation;

b. Planting of riparian vegetation;

c. Vegetated rip-rap;

d. Nonvegetated rip-rap;

e. Bulkhead or seawall.

2. Where rip-rap, bulkheads or seawalls are proposed as protective measures, evidence shall be provided that high priority methods of erosion control will not work.

E. Qualifications for Beachfront Protection.

1. Structural shoreline stabilization methods for beachfront protection shall be permitted only if:

a. There is a critical need to protect property that is threatened by erosion hazard;

b. Impacts on adjacent property are minimized;

c. Visual impacts are minimized;

d. Access to the beach is maintained;

e. Long-term or recurring costs to the public are avoided; and

f. Riparian vegetation is preserved as much as possible.

2. These criteria shall apply to structural shoreline stabilization both east and west of the State Zone Line.

F. Beachfront protective structures for beach and dune areas shall be permitted only where development existed on January 1, 1977. "Development" means houses, commercial and industrial buildings and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot and includes areas where a Goal 18 exception has been approved. Notwithstanding that the comprehensive plan and a map made part of the ordinance codified in this title identify property where development existed on January 1, 1977, owners whose property is identified as undeveloped on January 1, 1977 shall have a right to a hearing as provided in Chapter 17.88, as amended, to determine whether development did or did not exist on the property on January 1, 1977.

G. Structural shoreline stabilization methods along Ecola Creek Estuary shall be permitted only if the following criteria are met:

1. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights, and:

a. No feasible alternative upland locations exist, and

b. Adverse impacts are minimized;

2. Flooding or erosion is threatening an established use on a subject property;

3. The proposed project will not restrict existing public access to publicly owned lands or interfere with the normal public use of fishery, recreation or water resources;

4. Visual impacts are minimized;

5. The proposed project will not adversely impact adjacent aquatic areas or nearby property through increased erosion, sedimentation, shoaling or other changes in water circulation patterns. An affidavit from a registered engineer, geologist or hydrologist may be required to demonstrate this;

6. The project is timed to minimize impacts on aquatic life;

7. Long-term or recurring costs to the public are avoided.

H. Rip-rap shall be placed in accordance with the city's design criteria. Structural

shoreline stabilization shall be designed by a registered engineer if the city's design criteria for rip-rap are not used, or if landslide retention is a factor in the placement of the shoreline protection structure. All structural shoreline stabilization shall be covered with fill material such as soil, clay or sand and revegetated with beach grass, willow or other appropriate vegetation. This requirement shall apply to replacement or repair of existing rip-rap as well as new construction.

I. The shoreline protection structure shall be the minimum necessary to provide the level of protection required.

J. The emergency placement of rip-rap to protect buildings from an imminent threat shall be permitted without a permit. However, the city, Oregon Parks and Recreation Department and the Oregon Division of State Lands shall be notified when rip-rap is placed along the beachfront. The city, Oregon Division of State Lands and the U.S. Army Corps of Engineers shall be notified when rip-rap is placed along the Ecola Creek Estuary. Measures taken as a result of emergency conditions will be inspected. Alteration or removal of the material placed to conform to city and state standards may be required.

K. Proposals to repair existing rip-rap, bulkheads or seawalls shall be reviewed by the building official. If the building official determines the proposed repair involves a major change in the extent of rip-rap, bulkheading or the seawall, the proposal shall be reviewed by the planning commission as a conditional use. If the proposed repair is determined to not involve a major change, a development permit is required. Repairs to rip-rap shall conform to the city's design criteria for rip-rap.

L. The city may require that proposed structural shoreline stabilization abutting a street end, or other public right-of-way, incorporate steps, paths or other physical improvements to enhance public access to coastal waters. (Ord. 95-21 § 4: Ord. 94-08 §§ 16—18; Ord. 89-3 § 1 (part); Ord. 86-10 § 11: Ord. 79-4 § 1 (6.230))

17.80.240 Post office.

The main post office of the city shall be located in the downtown area C-1 zone, except that a branch may be located in the commercial zone of Tolovana Park. (Ord. 79-4 § 1 (6.240))

17.80.250 Parks.

New park projects or major improvements, both city and state, shall be reviewed by the city parks board and the design review board to ensure that such projects are aesthetically compatible with their surroundings in terms of open space, landscaping, scale and architecture. Public need will be demonstrated through evidence of increased demand on existing facilities, and the support of citizens and visitors for the proposed facility. (Ord. 79-4 § 1 (6.250))

17.80.260 Trails.

The construction of trails and the anticipated level of trail usage shall have a negligible impact on the area's open space values. (Ord. 79-4 § 1 (6.260))

17.80.270 Public parking facilities.

A public parking facility shall be reviewed by the design review board subject to pertinent criteria in Chapters 17.44 and 17.78 of this title. (Ord. 79-4 § 1 (6.270))

17.80.280 Cottage industries.

A. The following specific conditional use standards apply to cottage industries:

1. Materials, vehicles or parts shall be stored in an enclosed structure;

2. Noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the cottage industry shall not be detectable beyond the limits of the property;

3. Sight-obscuring landscaping of at least twenty feet in width shall be maintained between the use and adjacent properties or public streets;

4. The use must be a low-traffic generator;

5. Other than family members residing on the premises, no more than one other employee may be hired;

6. Signs shall not exceed one square foot in area and shall comply with the provisions of Chapter 17.56;

7. Off-street parking and access shall be designed to be adequate for customers without creating a commercial parking lot appearance on the site. Chapter 17.78 shall apply;

8. Uses involving nonresident employees and the delivery of materials shall limit their hours of operation to between 8:00 a.m. and 6:00 p.m.;

9. Waste disposal shall comply with Department of Environmental Quality requirements;

10. A structure built to house a cottage industry shall be reviewed by the design review board subject to pertinent criteria in Chapter 17.44;

11. The cottage industry shall only be operated by residents of the property and shall not be leased, sold, conveyed or any interest therein transferred separately from the residence.

B. The planning commission shall review cottage industries upon the receipt of two written complaints of violations of these standards from two separate households within two hundred fifty feet of the boundary of the affected property, or a complaint from the planning commission. The planning commission shall hold a public hearing to review the complaints.

C. The planning commission shall hear the evidence presented, and may, with adequate findings of fact:

1. Approve the use as it exists; or

2. Require that it be terminated; or

3. Impose restrictions such as limiting hours of operation.

Decisions of the planning commission may be appealed to the city council.

D. New complaints which are substantially similar to those previously acted upon will be heard by the planning commission only after a period of six months has elapsed from the date of the earlier decision, unless the planning commission believes that any restrictions it has imposed have not been followed. (Ord. 79-4 § 1 (6.275))

17.80.290 Dikes.

The following specific conditional use standards apply to dikes:

A. The outside face of the dike shall be suitably protected to prevent erosion during new dike construction and during maintenance of existing dikes. Applicable standards for shoreline stabilization shall be met. However, trees, brush and shrubs, which jeopardize the structural integrity of dikes, should be excluded from revegetation plans.

B. New dike alignment and configuration shall not cause an increase in erosion

or shoaling in adjacent areas or an appreciable increase in backwater elevation. Channelization of the waterway shall be avoided.

C. Where new dikes are shown to be necessary for flood protection, new dikes shall be placed on shorelands and not in aquatic areas. Where this is not feasible, an exception to Statewide Planning Goal 16, Estuarine Resources, is required. (Ord. 95-21 § 6: Ord. 79-4 § 1 (6.280))

17.80.300 Estuarine dredging.

The following specific conditional use standards apply to dredging:

A. Dredging in Aquatic Areas.

1. Dredging in aquatic areas shall only be permitted if required for one or more of the following uses and activities:

a. Temporary alterations;

b. An approved restoration or estuarine enhancement project;

c. Bridge crossing support structures;

d. Submerged cable, sewer line, water line or other pipeline.

2. The above mentioned dredging in aquatic areas shall be allowed only if:

a. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

b. No feasible alternative upland locations exist; and

c. Adverse impacts are minimized.

B. When dredging is permitted, the dredging shall be the minimum necessary to accomplish the proposed use.

C. Erosion, sedimentation, increased flood hazard and other undesirable changes in circulation shall be avoided.

D. The timing of dredging shall be coordinated with state and federal resource agencies, local governments and private interests, to ensure adequate protection of estuarine resources (fish runs, spawning, benthic productivity, wildlife, etc.) and to minimize interference with recreational fishing activities.

E. Adverse short-term effects of dredging such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of the food chain, loss of benthic productivity, and disturbance of fish runs and important localized biological communities shall be minimized.

F. Impacts on areas adjacent to the dredging project such as destabilization of fine-textured sediments, erosion, siltation and other undesirable changes in circulation patterns, shall be minimized. (Ord. 95-21 § 7: Ord. 94-29 § 5; Ord. 86-10 § 12: Ord. 79-4 § 1 (6.290))

17.80.310 Estuarine fill.

The following specific conditional use standards apply to estuarine fill:

A. Basic Requirements.

1. Fill in estuarine areas shall be permitted only if required for:

a. Maintenance and protection of man-made structures existing as of October 7, 1977;

b. Active restoration or estuarine enhancement;

c. Bridge crossing support structures;

d. Temporary alterations;

e. In conjunction with a use for which an exception has been taken.

2. Filing in estuarine areas shall be allowed only if:

a. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights;

b. No alternative upland locations exist; and

c. Adverse impacts are minimized.

B. The applicant shall present evidence that impacts on the following will be minimized:

1. Fish and wildlife habitats and essential properties of the estuarine resource (e.g., dynamic geologic processes, continued biological productivity, unique or endemic communities or organisms, species diversity);

2. Water quality and water circulation;

3. Recreational use of the estuary.

C. A fill shall be the minimum necessary to achieve the proposed use.

D. The fill's exterior shall be suitably stabilized. (Ord. 95-21 § 8: Ord. 86-10 § 13: Ord. 79-4 § 1 (6.300))

17.80.320 Estuarine bridge crossing.

The following specific conditional use standards apply to bridge crossings:

A. Land transportation facilities shall not be located in estuarine areas except where bridge crossings are needed and where no feasible alternative upland route exists.

B. The applicant shall present evidence that the proposed bridge crossing will minimize impacts on the following:

1. Fish and wildlife habitats and essential properties of the estuary;

2. Water quality and water circulation;

3. Recreational use of the estuary, including public access.

C. A public need for the bridge shall be demonstrated. (Ord. 94-29 § 6; Ord. 86-10 § 14: Ord. 79-4 § 1 (6.310))

17.80.330 Estuarine pilings.

The following specific conditional use standards apply to pilings:

A. A need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights, and:

1. No feasible alternative upland locations exist; and

2. Adverse impacts are minimized.

B. Piling installation shall be permitted only in conjunction with a permitted or conditional use.

C. Piling installation shall be the minimum necessary to accomplish the proposed use.

D. The applicant shall present evidence that the proposed piling is designed and constructed to minimize adverse impacts on the following:

1. Boating;

2. Aquatic life and habitat;

3. Water circulation and sediment transport;

4. Water quality;

5. Recreational uses. (Ord. 95-21 § 9: Ord. 94-29 § 7; Ord. 79-4 § 1 (6.320))

17.80.350 Dredging and filling mitigation.

Mitigation for dredge or fill within estuarine waters or intertidal wetlands shall be required by the director of the Division of State Lands (under the provisions of ORS 541.605 through 541.665). The suitability of a mitigation proposal for a given project shall be determined by the director of the Division of State Lands. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (6.335))

Chapter 17.82

NONCONFORMING LOTS, USES AND STRUCTURES—PRE-EXISTING USES

Sections:

17.82.010	Purpose.
17.82.020	Nonconforming lots.
17.82.030	Nonconforming uses.
17.82.040	Nonconforming structures.
17.82.050	Prior approval.
17.82.060	Pre-existing uses.
17.82.070	Nonconforming uses pursuant to a claim for compensation under ORS 197.352.
17.82.080	Nonconforming private parking lot.

17.82.010 Purpose.

Within the districts established by the zoning code, or amendments that may later be adopted, there may exist lots, structures, uses of land and structures and characteristics of use which were lawful before the effective date of the zoning code or amendments thereto, but which would be prohibited, regulated, or restricted under the terms of this zoning code or future amendments thereto. The purpose of this chapter is to establish the legal status of such nonconforming uses, structures, lots, and other site improvements by creating provisions through the application of which such uses, structures, lots and other site improvements may be maintained, altered, reconstructed, expanded or abated. (Ord. 08-1 § 54: Ord. 92-12 § 3: Ord. 88-11 § 2: Ord. 79-4 § 1 (7.010))

17.82.020 Nonconforming lots.

A. If a lot or the aggregate of contiguous lots held in a single ownership as recorded in the office of the county clerk at the time of the passage of the ordinance codified in this chapter has an area or dimension which does not meet the lot size requirements of the zone in which the property is located, the lot or the aggregate of contiguous lots may be occupied by a use permitted in the zones, subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to asingle-family dwelling.

B. In the R-1, R-2, R-3 and RM zones, where two contiguous lots, which were created prior to the effective date of Ordinance 79-4A, are held in a single ownership and one of the lots has a minimum lot area of at least four thousand square feet and the other lot has a minimum lot area of at least two thousand five hundred square feet, both the lots may be occupied by a single-family dwelling so long as the total building coverage on the lot does not exceed forty percent. (Ord. 06-10 § 11: Ord. 85-1 § 2: Ord. 79-4 § 1 (7.020))

17.82.030 Nonconforming uses.

The following provisions apply to nonconforming uses:

A. "Nonconforming use" means a lawful use which existed prior to the adoption of Ordinance 79-4A on June 19, 1979, or ordinances adopted prior to Ordinance 79-4A and which does not conform to the use requirements of the zone in which it is located,

and which does not qualify as a pre-existing use pursuant to Section 17.82.060. Nonconforming uses are those that were made nonconforming by Ordinance 79-4A or ordinances adopted prior to Ordinance 79-4A.

B. Requirements. Nonconforming uses are subject to the following requirements:

1. Reconstruction. If a structure devoted to a nonconforming use is destroyed or damaged by any cause other than actions of the owner of that structure or his agents, that structure may be rebuilt. The construction or reconstruction of the structure shall:

a. Conform to the setbacks, building height and floor area of the structure prior to damage or destruction; or

b. Conform to the setbacks, building height and other requirements of the zone in which it is located.

A building permit for the construction or reconstruction of a structure devoted to a nonconforming use thus damaged or destroyed shall be obtained within one year of the date that the damage or destruction occurred. If a building permit is not obtained within one year, the use of the property shall be in conformance with the requirements of the zone in which it is located.

2. Alteration. A structure devoted to a nonconforming use may be structurally altered, but not enlarged or altered in a manner that changes the external dimensions of the structure.

3. Expansion. A structure devoted to a nonconforming use may not be enlarged, expanded or reconstructed.

C. Change of Use. A nonconforming use may be changed to a conforming use. However, after a nonconforming use is changed to a conforming use it shall thereafter not be changed to a use that does not conform to the use zone in which it is located.

D. Discontinuance of Use.

1. If a nonconforming use involving a structure is discontinued for a period of one year, further use of the property shall conform to this chapter.

2. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall conform to this chapter. (Ord. 08-1 § 55; Ord. 88-11 § 3 : Ord. 869 § 1: Ord. 79-4 § 1 (7.030))

17.82.040 Nonconforming structures.

The following provisions apply to nonconforming structures:

A. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could no longer be built under the terms of this chapter by reason of restrictions on area, building coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may continue so long as it remains otherwise lawful.

B. A nonconforming structure may be altered in a way that does not increase its nonconformity so long as the proposed alteration (within a three-year period) does not exceed fifty percent of the fair market value of the building, as indicated by the records of the county assessor. Alterations in excess of fifty percent of the fair market value of the building may be authorized in accordance with the provisions of Chapter 17.64, Setback Reduction.

C. A nonconforming structure may be enlarged in a way that does not increase its

nonconformity provided that the total building coverage does not exceed forty percent.

D. The enlargement or alteration of a nonconforming structure in a way that increases its nonconformity may be authorized in accordance with the provisions of Chapter 17.64, Setback Reduction.

E. Any structure or portion thereof may be altered to decrease its nonconformity.

F. If a nonconforming structure or nonconforming portion of a structure is destroyed by any means to an extent amounting to eighty percent of its fair market value as indicated by the records of the county assessor, it shall not be reconstructed except in conformity with the provisions of this title. (Ord. 92-11 §§ 72, 73; Ord. 89-3 § 1 (part); Ord. 85-3 § 3; Ord. 79-4 § 1 (7.040))

17.82.050 Prior approval.

Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a structure for which a legal permit has been issued by the city and construction has begun, provided the structure, if nonconforming or intended for a nonconforming use, is completed and is used within two years from the time the permit was issued. (Ord. 79-4 § 1 (7.050))

17.82.060 Pre-existing uses.

The following provisions apply to preexisting uses:

A. Purpose. The purpose of this section is to minimize hardship on land use activities that were subject to restrictive zone changes, or zoning ordinance text amendments, occurring after the adoption of the city's zoning ordinance on June 19, 1979, which were adopted to carry out overall comprehensive plan policies. As a result of these zone boundary or zoning ordinance text amendments, some land use activities no longer comply with the regulations of this title. The preexisting use regulations are a means to provide these affected uses the same general rights as those of their previous use zone. The regulations provide flexibility for expansion of the pre-existing use and as such are intended to be less restrictive than the nonconforming use provisions of Section 17.82.030.

B. Definition. "Pre-existing use" means:

1. A use existing on June 19, 1979 which was a permitted or conditional use in its use zone, as indicated by Ordinance 79-4 and the land use and zoning map contained therein, but which, as the result of a zoning ordinance map or text change, is no longer a permitted or conditional use in its use zone; or

2. A use constructed after June 19, 1979 in a use zone in which it was a permitted or conditional use, but which, as a result of a zoning ordinance map or text change, is no longer a permitted or conditional use in its use zone.

C. Requirements. Pre-existing uses shall be subject to the following requirements:

1. Reconstruction. If a structure devoted to a pre-existing use is destroyed or damaged by any cause other than actions of the owner of that structure or his agents, that structure may be rebuilt. The construction or reconstruction of the structure shall:

a. Conform to the setbacks, building height and floor area of the structure prior to damage or destruction; of

b. Conform to the setbacks, building height and other requirements of the zone in which it is located.

There shall be no time limit on the reconstruction of a damaged or destroyed preexisting use.

2. Building Expansion. Pre-existing uses may be structurally altered, enlarged, expanded or reconstructed on an existing site subject to the standards (e.g., building height, setbacks) of the use zone in which the use is located. In addition, the density of preexisting motels shall not exceed one motel unit per one thousand square feet of site area. Building expansion shall include the construction of nonstructural improvements such as parking. Building expansion, other than structural alteration, of a pre-existing use that was previously a conditional use, shall require a public hearing pursuant to Sections 17.88.010 through 17.88.190, Public Deliberations and Hearings. The standards for reviewing the proposed building expansion, other than structural alteration, are:

a. A demand exists for the use at the proposed location. Several factors which should be considered in determining whether or not this demand exists include: accessibility for users (such as customers and employees), availability of similar existing

uses, availability of other appropriately zoned sites, particularly those not requiring conditional use approval, and the desirability of other suitably zoned sites for the use.

b. The use will not create excessive traffic congestion on nearby streets or overburden the following public facilities and services: water, sewer, storm drainage, electrical service, fire protection and schools.

c. The site has an adequate amount of space for any yards, building, drives, parking, loading and unloading areas, storage facilities, utilities, or other facilities which are required by city ordinances or desired by the applicant.

d. The topography, soils and other physical characteristics of the site are appropriate for the use. Potential problems due to weak foundation soils will be eliminated or reduced to the extent necessary for avoiding hazardous situations.

e. An adequate site layout will be used for transportation activities. Consideration should be given to suitability of any access points, on-site drives, parking, loading and unloading areas, refuse collection and disposal points, sidewalks, bike paths, or other transportation facilities required by the city ordinances or desired by the applicant. Suitability, in part, should be determined by the potential impact of these facilities on safety, traffic flow and control, and emergency vehicle movements.

f. The site and building design ensure that the use will be compatible with the surrounding area.

3. Site Expansion. A site expansion of a pre-existing use, beyond the existing site, shall occur only:

a. On abutting lots or on lots directly across a public right-of-way from the existing site of the pre-existing use; and

b. Where such lots were in the same ownership as the pre-existing use on the date that the pre-existing use became classified as a pre-existing use; and

c. Where such lots were in the same use zone as the pre-existing use, or where such lots were in a zone which allowed the preexisting use as a permitted or conditional use.

Any building shall conform to the standards (e.g., building height, setbacks) of the use zone in which the use is located. In addition, for motels that were previously in the RMA zone, the maximum lot size shall be twenty thousand square feet.

4. Definition of Existing Site. For the purpose of paragraphs 2 and 3 of subsection C of this section, "existing site" means the lot or lots on which the pre-existing use was situated at the time the use became nonconforming.

5. Change of Use. A pre-existing use may be changed to a conforming use. However, after a pre-existing use is changed to a conforming use it shall thereafter not be changed to a use that does not conform to the use zone in which it is located.

6. Discontinuance of Use. If a pre-existing use involving a structure is discontinued for a period of one year, further use of the property shall conform to the ordinance codified in this chapter.

7. Determination of a Pre-existing Use. Where there is a difference between the city and a property owner on whether a particular use should be classified as a pre-existing use or a nonconforming use, the burden of proof is on the property owner to show that the

definitions and requirements of this section have been met. (Ord. 92-12 §§ 4—6; Ord. 92-11 § 74; Ord. 88-11 § 5: Ord. 79-4 § 1 (7.070))

17.82.070 Nonconforming uses pursuant to a claims for compensation under ORS 197.352

Uses or structures, including lots and parcels created by land divisions, that are approved as part of the city's final action modifying, removing or not applying the city's land use regulation(s) in response to a demand for compensation under ORS 197.352, but where the city's final action does not include a development agreement, shall be considered nonconforming and are subject to the requirements of Section 17.82.020 and Sections 17.82.030(B) through (D). (Ord. 06-3 § 28)

17.82.080 Nonconforming private parking lot.

The use of a private parking lot shall be controlled by the provisions of this section and not those of Section 17.82.030, Nonconforming uses, or Section 17.82.060, Preexisting uses. Where a private pay parking lot existed prior to the effective date of Ordinance 97-13, an amortization period of four months, from the effective date of Ordinance 97-26 is established. At the conclusion of the amortization period, the use of a nonconforming private parking lot shall be terminated. (Ord. 97-26 § 1)

Chapter 17.84
VARIANCES

Sections:

17.84.010 Purpose.
17.84.020 Conditions.
17.84.030 Criteria for granting.
17.84.040 Off-street parking and loading facilities.
17.84.050 Applications.
17.84.060 Investigation and report.
17.84.070 Procedure.
17.84.080 Compliance with conditions of approval.
17.84.090 Time limit for approved variances.
17.84.100 Vested interest in approved variances.

17.84.010 Purpose.

The purpose of a variance is to provide relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical hardships on the applicant. Practical difficulties or unnecessary physical hardships may result from the size, shape or dimensions of a site or the location of existing structures thereon; from geographic, topographic or other conditions on the site or in the immediate vicinity or from population densities, street location or traffic conditions in the immediate vicinity. No variance shall be granted to allow the use of a property for a purpose not authorized within the zone in which the proposed use would be located. (Ord. 79-4 § 1 (8.010))

17.84.020 Conditions.

Reasonable conditions may be imposed in connection with a variance as deemed necessary to protect the best interests of the surrounding property or neighborhood, and otherwise secure the purpose and requirements of this chapter. Guarantees and evidence may be required that such conditions will be and are being complied with. (Ord. 79-4 § 1 (8.020))

17.84.030 Criteria for granting.

A. Variances to a requirement of this title, with respect to lot area and dimensions, setbacks, yard area, lot coverage, height of structures, vision clearance, decks and walls, and other quantitative requirements, may be granted only if, on the basis of the application, investigation and evidence submitted by the applicant, all four expressly written findings are made:

1. That a strict or literal interpretation and enforcement of the specified requirement would result in practical difficulty or unnecessary hardship and would be inconsistent with the objectives of the comprehensive plan; and

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties in the same zone; and

3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the near vicinity; and

4. That the granting of the variance would support policies contained within the comprehensive plan.

B. Variances in accordance with this section should not ordinarily be granted if the special circumstances on which the applicant relies are a result of the actions of the applicant, or owner, or previous owners. (Ord. 79-4 § 1 (8.030))

17.84.040 Off-street parking and loading facilities.

A. Variances to requirements of this title with respect to off-street parking and loading facilities may be authorized as applied for or as modified by the planning commission if, on the basis of the application, investigation and the evidence submitted by the applicant, all three of the following expressly written findings are made:

1. That neither present nor anticipated future traffic volumes generated by the use of the site or use of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the requirements of this title; or the granting of the variance will protect a wetland or wetland buffer area; and

2. That the granting of the variance will not result in the parking or loading of vehicles on public streets in such a manner as to materially interfere with the free flow of traffic on the streets;

3. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the general purpose of this title or policies contained within the comprehensive plan.

B. Where a variance request is being reviewed under this section, only the criteria of this section shall be addressed. The criteria of Section 17.84.030 are not applicable. (Ord. 94-29 § 8; Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (8.040))

17.84.050 Applications.

Application for a variance shall be filed with the city on forms prescribed by the city. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (8.050))

17.84.060 Investigation and report.

The city manager shall make or cause to be made an investigation to provide necessary information to ensure that the action on each application is consistent with the variance criteria and shall make a recommendation to the city planning commission. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (8.060))

17.84.070 Procedure.

A. Before the city planning commission may act upon a variance request, notice of a public hearing in the manner prescribed in Sections 17.88.010 through 17.88.040 shall be given.

B. The city planning commission shall review the variance application in accordance with Section 17.88.060.

C. The city planning commission decision shall be in accordance with Section 17.88.110.

D. Notification of the planning commission decision shall be in accordance with Section 17.88.130.

E. The decision of the planning commission may be appealed in accordance with Sections 17.88.140 through 17.88.190. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (8.070))

17.84.080 Compliance with conditions of approval.

Compliance with conditions imposed on the variance, and adherence to the submitted plans, as approved, is required. Any departure from these conditions of approval and approved plans constitutes a violation of the ordinances codified in this title, unless modified by the planning commission at a public hearing, pursuant to Section 17.84.070. (Ord. 08-1 § 56: Ord. 79-4 § 1 (8.080))

17.84.090 Time limit for approved variances.

Authorization of a variance shall be void after one year or such lesser time as the authorization may specify unless a building permit has been issued. However, when requested, the planning commission, at a public hearing conducted pursuant to Section 17.84.070, may extend authorization for an additional period not to exceed one year. (Ord. 08-1 § 57: Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (8.085))

17.84.100 Vested interest in approved variances.

A. A valid variance supercedes conflicting provisions of subsequent rezonings or amendments to the ordinance codified in this chapter unless specifically provided otherwise by the provisions of the section or the conditions of approval to the variance.

B. Variances shall be automatically revoked if not exercised within six months of the date of approval.

C. Applications for which a substantially similar application has been denied shall be heard by the planning commission only after a period of six months has elapsed. (Ord. 79-4 § 1 (8.090))

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Chapter 17.86

AMENDMENTS

Sections:

17.86.010 Purpose.
17.86.020 Authorization to initiate.
17.86.030 Application.
17.86.040 Investigation and report.
17.86.050 Classification of actions.
17.86.060 Procedures.
17.86.070 Criteria.
17.86.075 Conditional zone amendment.
17.86.080 Limitations on reapplications.
17.86.090 Changes of zone for manufactured dwelling parks.

17.86.010 Purpose.

Periodically, as local goals and needs change and new information is obtained, the zoning ordinance, as codified in this title, should be updated. The purpose of the zoning ordinance amendment process is to provide a method for carefully evaluating potential changes to ensure that they are beneficial to the city. (Ord. 79-4 § 1 (9.010))

17.86.020 Authorization to initiate.

An amendment to the text of the ordinance codified in this title may be initiated by the city council, planning commission, a person owning property in the city or a city resident. An amendment to a zone boundary may only be initiated by the city council, planning commission or the owner or owners of the property for which the change is proposed. (Ord. 79-4 § 1 (9.020))

17.86.030 Application.

Property owners or local residents who are eligible to initiate an amendment, or their designated representatives, may begin a request for an amendment by filing an application with the city manager, using forms prescribed by the city. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (9.030))

17.86.040 Investigation and report.

The city manager shall make or cause to be made an investigation to provide necessary information on the consistency of the proposal with the comprehensive plan and the criteria in Section 17.86.070. The report shall provide a recommendation to the planning commission on the proposed amendment. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (9.040))

17.86.050 Classification of actions.

A. The following amendment actions are considered legislative under this title:

1. An amendment to the text of the ordinance codified in this title;

2. A zone change action that the city manager has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that processing the request as a quasi-judicial action would be inappropriate.

B. The following amendment action is considered quasi-judicial under this title: a zone change that affects a limited area or a limited number of property owners. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (9.050))

17.86.060 Procedures.

A. The following procedures shall be followed for amendments determined to be legislative:

1. Notice of public hearings shall be in accordance with Sections 17.88.010 through 17.88.040. However, notice of the hearing need not include a mailing to property owners when the matter at issue does not relate to a specific geographic area. Where such mailing is omitted, the city manager shall prepare a notice program designed to reach persons believed to have a particular interest and to provide the general public with a reasonable opportunity to be aware of the hearings on the proposal.

2. The review of the proposed amendment shall be in accordance with Section 17.88.060. Both the planning commission and the city council shall hold a public hearing on the proposal. After the planning commission hearing, the planning commission shall forward its recommendation to the city council.

B. The following procedures shall be followed for amendments determined to be quasi-judicial:

1. Notice of public hearing shall be in accordance with Sections 17.88.010 through 17.88.040.

2. The review of the proposed amendment shall be in accordance with Section 17.88.060. The planning commission shall hold a public hearing on the proposal. The city council may hold a public hearing on the proposal. After the planning commission hearing, the planning commission shall forward its recommendation to the city council. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (9.060))

17.86.070 Criteria.

A. Before an amendment to the text of the ordinance codified in this title is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the comprehensive plan;

2. The amendment will not adversely affect the ability of the city to satisfy land and water use needs.

B. Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied:

1. The amendment is consistent with the comprehensive plan;

2. The amendment will either:

a. Satisfy land and water use needs, or

b. Meet transportation demands, or

c. Provide community facilities and services;

3. The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations;

4. Resource lands, such as wetlands are protected;

5. The amendment is compatible with the land use development pattern in the vicinity of the request. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (9.070))

17.86.075 Conditional zone amendment.

Purpose. The purpose of the conditional zone amendment provision is to enable the city council to attach specific conditions to a request for a zone boundary change where it finds that such conditions are necessary to achieve a stated public purpose.

A. The city council shall have the authority to attach conditions to the granting

of amendments to a zone boundary. These conditions may relate to any of the following matters:

1. The uses permitted;

2. Public facility improvements such as street improvements, dedication of street right-of-way, sewer, storm drainage, and water;

3. That all or part of the development or use be deferred until certain events, such as the provision of certain public facilities to the property, occur;

4. The time frame in which the proposed use associated with the zone boundary change is to be initiated.

B. Conditions, applied to potential uses other than needed housing types as defined by OAR 660-08-005, may be imposed upon a finding that:

1. They are necessary to achieve a valid public purpose; and

2. They are designed to achieve their intended purpose and are reasonably related to the land or its proposed use.

Conditions applied to property with the potential to be used for needed housing types as defined by OAR 660-08-005 may be imposed upon a finding that:

3. They are necessary to achieve a valid public purpose;

4. They are designed to achieve their intended purpose and are reasonably related to the land or its proposed use; and

5. They shall not have the effect, either singly or cumulatively, of discouraging or preventing the construction of needed housing types.

C. Conditions attached to a zone boundary change shall be completed within the time limitations set forth. If no time limitations are set forth, the conditions shall be completed within two years from the effective date of the ordinance enacting the zone boundary change.

D. The city council may require a bond from the property owner or contract purchasers in a form acceptable to the city in such an amount as to assure compliance with the conditions imposed on the zone boundary change. Such a bond shall be posted prior to the issuance of the appropriate development permit.

E. Conditions shall not be imposed which would have the effect of limiting use of the property to one particular owner, tenant or business. Conditions may limit the subject property as to use, but shall not be so restrictive that they may not reasonably be complied with by other occupants who might devote the property to the same or a substantially similar use.

F. Conditions that are imposed under the provisions of this section shall be construed and enforced as provisions of this zoning code relating to the use and development of the subject property. The conditions shall be enforceable against the applicant as well as their successors and assigns.

G. Requests for modification of conditions shall be considered by the zone amendment application and review procedure of Sections 17.86.010 through 17.86.070 of this code.

H. Failure to fulfill any condition attached to a zone boundary change within the specified time limitations shall constitute a violation of this section and may be grounds for the city to initiate a change in the zone boundary pursuant to the procedures of Sections 17.86.010 through 17.86.070. (Ord. 92-5 § 1)

17.86.080 Limitations on reapplications.

No application of a property owner or local resident for an amendment to the text of the ordinance codified in this title or to the zone boundary shall be considered by the planning commission within the one year period immediately following a previous denial of such request. The planning commission may permit a new application if, in the opinion of the planning commission, substantial new evidence or a change of circumstances warrant reconsideration. (Ord. 79-4 § 1 (9.080))

17.86.090 Changes of zone for manufactured dwelling parks.

If an application would change the zone of property which includes all or part of a manufactured dwelling park as defined in O.R.S. 446.003, the city shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at least twenty days but not more than forty days before the date of the first hearing on the application. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change. (Ord. 90-10 § 1 (Appx. A § 51): Ord. 86-10 § 14: Ord. 79-4 § 1 (9.085))

Chapter 17.88

PUBLIC DELIBERATIONS AND HEARINGS

Sections:

17.88.010 Procedure for mailed notice.
17.88.020 Procedure for published notice.
17.88.030 Notice of hearing.
17.88.040 Time of notice.
17.88.050 Date of public hearing.
17.88.055 Availability of staff reports.
17.88.060 Additional documents or evidence.
17.88.065 Public hearing procedure and requirements.
17.88.070 Procedural rights.
17.88.080 Rights of disqualified member of hearing body.
17.88.090 Burden and nature of proof.
17.88.100 Nature of proceedings.
17.88.110 Decision.
17.88.120 Record of proceedings.
17.88.130 Notice of decision.
17.88.140 Request for review of decision.
17.88.150 Requirements of a request for appeal of a development permit, design review board or planning commission decision.
17.88.160 Scope of review.
17.88.170 Review on the record.
17.88.180 Review consisting of additional evidence or de novo review.
17.88.190 Review body decisions.
17.88.200 Notification of state and federal agencies.
17.88.210 Final action on applications.

17.88.010 Procedure for mailed notice.

A. Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:

1. Legislative change to the zoning ordinance: none;

2. Quasi-judicial change to the zoning ordinance: two hundred fifty feet;

3. Conditional use: two hundred fifty feet;

4. Variance and setback reduction: one hundred feet;

5. Design review plans: one hundred feet;

6. Cutting and filling, pursuant to Chapter 17.62: abutting property owners.

B. Mailed notice shall be sent to the applicant.

C. Addresses for a mailed notice required by this title shall be obtained from the county assessor's real property tax records. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this title for notice.

D. Mailed notice shall contain the information contained in subsection A of Section 17.88.030. (Amended during 7/92 supplement; Ord. 90-3 § 16; Ord. 90-10 § 1

(Appx. A § 53): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.010))

17.88.020 Procedure for published notice.

A. Notice shall be given for the proposed actions described below by publication in a newspaper of general circulation in the city:

1. Legislative change to this title.

B. Published notice shall contain the information contained in Section 17.88.030 (A)(1)—(A)(9). (Ord. 90-10 § 1 (Appx. A § 54): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.020))

17.88.030 Notice of hearing.

Notice of a hearing shall contain the following information:

A. The name of the property owner and applicant, if different from the property owner, and the city's case file number;

B. The date, time, place of the hearing and who is holding the public hearing;

C. A description of the location of the property for which a permit or other action is pending, including the street address, and a subdivision lot and block designation, or the tax map designation of the county assessor;

D. A concise description of the proposed action;

E. A listing of the applicable criteria known to apply to the application at issue;

F. A statement that a failure by the applicant or other parties to the hearing to raise an issue at a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision makers an opportunity to respond to the issue, precludes appeal based on that issue;

G. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost;

H. A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;

I. The name of a city representative to contact and the telephone number where additional information may be obtained; and

J. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings. (Ord. 96-1 § 1: Ord. 90-10 § 1 (Appx. A § 52): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.030))

17.88.040 Time of notice.

Where required, notice shall be mailed, published and posted twenty days prior to the hearing requiring the notice. (Ord. 90-10 § 1 (Appx. A § 55): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.040))

17.88.050 Date of public hearing.

A public hearing shall be held within forty days of the filing of a complete application. (Ord. 90-10 § 1 (Appx. A § 56): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.050))

17.88.055 Availability of staff reports.

Any staff report to be used at a public hearing shall be available at least seven days prior to the hearing. (Ord. 96-1 § 2: Ord. 90-10 § 1 (Appx. A § 57): Ord. 79-4 § 1 (10.055))

17.88.060 Additional documents or evidence.

If additional documents or evidence are provided by any party, the city may allow a continuance of the hearing or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the limitation of Section 17.88.120. Any continuance or extension of the limitation of Section 17.88.210. Any continuance or extension of the record requested by a party other than the applicant shall not affect the time limitation of Section 17.88.210. (Ord. 96-1 § 3)

17.88.065 Public hearing procedure and requirements.

Public hearings conducted under this title shall follow the procedures and requirements of Sections 17.88.070 through 17.88.100. (Ord. 96-1 § 4; Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.060))

17.88.070 Procedural rights.

The following procedural entitlements shall be provided at the public hearing:

A. An impartial review as free from potential conflicts of interest and prehearing ex parte contacts as is reasonably possible:

1. No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

a. Any of the following have a direct or substantial financial interest in the proposal: the hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment,

b. The member owns property within the area entitled to receive notice of the public hearing,

c. The member has a direct private interest in the proposal,

d. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner;

2. Disqualification due to a conflict of interest or personal bias may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion;

3. Hearing body members shall reveal any prehearing or ex parte contacts with regard to any matter at the commencement of the first public hearing following the pre-hearing or ex parte contact where action will be considered or taken on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations. Disqualifications due to ex parte contact may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion;

4. A party to a hearing may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, prejudg-

ment, personal interest, ex parte contact or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion;

5. A party to a hearing may rebut the substance of the communication that formed the basis for an ex parte contact declared by a member of the hearing body;

6. No officer or employee of the city who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest.

B. A reasonable opportunity for those persons potentially affected by the proposal to present evidence.

C. A reasonable opportunity for rebuttal of new material. (Ord. 90-10 § 1 (Appx. A § 58): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.061))

17.88.080 Rights of disqualified member of hearing body.

A disqualified member of the hearing body shall have the following rights:

A. An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.

B. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received. (Ord. 90-10 § 1 (Appx. A § 59); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.062))

17.88.090 Burden and nature of proof.

Except for a determination of the applicability of chapter provisions, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this chapter, especially the specific criteria set forth for the particular type of decision under consideration. (Ord. 90-10 § 1 (Appx. A § 60): Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.063))

17.88.100 Nature of proceedings.

An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate:

A. Before receiving information on the issue, the following shall be addressed:

1. Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or terminate.

2. Any abstentions or disqualifications, based on conflicts of interest, personal bias or ex parte contacts, shall be determined.

3. A statement by the person presiding that:

a. Describes the applicable substantive criteria against which the application will be reviewed;

b. Testimony and evidence must be directed toward the criteria described in paragraph (a) above or other criteria in the comprehensive plan or land use regulations which a person believes to apply to the land use action; and

c. Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision makers and parties to the hearing an opportunity to respond to the issue precludes an appeal based on that issue;

d. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The request may be granted to continuing the public hearing or leaving the record open for additional written evidence or testimony;

e. Describes the review and appeal process provided for by this chapter.

B. Presentations and Evidence.

1. The presiding officer shall preserve order at the public hearing and shall decide questions of order subject to a majority vote.

2. The presiding officer may set reasonable time limits for oral presentations. The presiding officer may determine not to receive cumulative, repetitious, immaterial or derogatory testimony.

3. Evidence shall be received from the staff and from proponents and opponents:

a. Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Erroneous evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party to the hearing;

b. Members of the hearing body may take official notice of judicially cognizable facts of a general, technical or scientific nature within their specialized knowledge. Such notice shall be stated and may be rebutted;

c. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

4. The hearing body may view the area in dispute with notification to the parties to the hearing, of the time, manner and circumstances of such a visit.

5. The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. The time and date when the hearing is to resume shall be announced.

6. Prior to the conclusion of the hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The request shall be granted by continuing the public hearing or leaving the record open for additional written evidence or testimony.

a. If the hearing is continued, the hearing shall be continued to a date, time and place certain which is at least seven days from the date of the initial hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or

testimony for the purpose of responding to the new written evidence.

b. If the record is held open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the city for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearing shall be reopened and any person may raise new issues which relate to the evidence, testimony or criteria which apply to the matter.

c. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all parties to submit final written arguments in support of the application. This final submittal shall be considered part of the record, but shall not include any new evidence. For the purposes of this section, "evidence" means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. For the purposes of this section "argument" means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponents to a decision; "argument" does not include facts.

d. A continuance or extension granted pursuant to this section shall be subject to the time limitations of Section 17.88.120, unless the continuance or extension is requested or agreed to by the applicant.

7. When the hearing has been closed, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff, if opportunity for rebuttal is provided. No testimony shall be accepted after the close of the public hearing unless the hearing body provides an opportunity for review and rebuttal of that testimony.

8. At the conclusion of the public hearing, a participant in the public hearing may request that the record remain open for at least seven days for the purpose of submitting additional evidence. Such a request may only be made at the first de novo hearing held in conjunction with a permit application or zoning ordinance text or map amendment.

Whenever the record is supplemented in this manner any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue. This extension of time shall not be counted as part of the one-hundred-twenty-day limit in Section 17.88.210. (Ord. 96-1 §§ 5, 6; Ord. 90-10 § 1 (Appx. A § 63); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.064))

17.88.110 Decision.

Following the procedure described in Section 17.88.060, the hearing body shall approve, approve with conditions or deny the application or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse or remand the decision that is on appeal.

A. The decision of the hearing body shall be by a written order signed by the chair or his designee.

B. The order shall incorporate finding of facts and conclusions that include:

1. A statement of the applicable criteria and standards against which the proposal was tested;

2. A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision;

3. In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.

C. The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed. (Ord. 90-10 § 1 (Appx. A § 64); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.070))

17.88.120 Record of proceedings.

The secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.

A. Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.

B. The hearing body shall, where practicable, retain as part of the hearing records each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.

C. The findings shall be included in the record.

D. A person shall have access to the record of proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.071))

17.88.130 Notice of decision.

Notice of a decision by a hearing body shall be provided to all parties to the hearing within five working days of the date that the final order was signed. The notice of the decision shall include:

A. A brief description of the decision reached;

B. A statement that the decision may be appealed by filing an appeal within twenty calendar days of the date that the final order was signed;

C. A description of the requirements for an appeal, including the type of appeal that may be requested;

D. A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing;

E. A statement that the complete case, including the final order is available for review at the city. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.072))

17.88.140 Request for review of decision.

A. A decision on the issuance of a permit concerning a land use matter, or a development permit may be appealed to the planning commission by an affected party by filing an appeal with the city manager within twenty days of the date that written notice of the decision was mailed. In the case of a permit, the notice of appeal that is

filed with the city shall indicate the nature of the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of this chapter. In the case of a development permit, the notice of appeal filed with the city shall contain the information outlined in Section 17.88.150.

B. A decision of the design review board may be appealed to the city council by a party to the hearing by filing an appeal within twenty days of the date the final order is signed. The notice of appeal filed with the city shall contain the information outlined in Section 17.88.150.

C. A decision of the planning commission may be appealed to the city council by a party to the hearing by filing an appeal within twenty calendar days of the date the final order is signed. The notice of appeal filed with the city shall contain the information outlined in Section 17.88.150. (Ord. 97-31 § 2; Ord. 94-08 § 19; Ord. 90-3 § 17: Ord. 90-10 § 1 (Appx. A § 65); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.080))

17.88.150 Requirements of a request for appeal of a development permit, design review board or planning commission decision.

An appeal of a development permit, design review board or planning commission decision shall contain the following:

A. An identification of the decision sought to be reviewed, including the date of the decision;

B. A statement of the interest of the person seeking the review. For a review of a decision by the design review board or planning commission, a statement that he/she was a party to the initial proceedings;

C. The specific grounds relied upon for review. For a review of a decision by the design review board or planning commission, a statement that the criteria against which review is being requested was addressed at the design review board or planning commission hearing;

D. For a review of a decision by the design review board or planning commission, if a de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Section 17.88.180. (Ord. 94-08 § 20: Ord. 90-3 § 18: Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.081))

17.88.160 Scope of review.

A. An appeal of a permit or development permit shall be heard as a de novo hearing.

B. In an appeal of a design review board or planning commission decision, the reviewing body may determine, as a nonpublic hearing item, that the scope of review, on appeal will be one of the following:

1. Restricted to the record made on the decision being appealed;

2. Limited to the admission of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter;

3. Remand the matter to the hearing body for additional consideration;

4. A de novo hearing on the merits. (Ord. 94-08 § 21: Ord. 90-10 § 1 (Appx. A § 66); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.082))

17.88.170 Review on the record.

A. Unless otherwise provided for by the

reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include the following:

1. A factual report prepared by the city manager;

2. All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review;

3. The final order and findings of fact adopted in support of the decision being appealed;

4. The request for an appeal filed by the appellant;

5. The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.

B. All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time and place of the review and the issue(s) that are the subject of the review.

C. The reviewing body shall make its decision based upon the record after first granting the right of argument, but not the introduction of additional evidence, to parties to the hearing.

D. In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.

E. The appellant shall bear the burden of proof. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.083))

17.88.180 Review consisting of additional evidence or de novo review.

A. The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:

1. The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or

2. A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and

3. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the previous review.

B. Hearings on appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of Sections 17.88.010 through 17.88.100.

C. All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review. (Ord. 90-10 § 1 (Appx. A § 62); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.084))

17.88.190 Review body decisions.

A. Upon review, the planning commission or city council may affirm, reverse or modify in whole or part, a determination or requirement of the decision that is under review. When the planning commission modifies or renders a decision that reverses an administrative decision, the planning commission shall set forth its findings and state its reasons for taking the action in conformance with the requirements of Section 17.88.110. When the city council modifies or renders a decision that reverses a decision of the design review board or the

planning commission, the city council shall set forth its findings and state its reasons for taking the action in conformance with the requirements of Section 17.88.110. When the city council elects to remand the matter back to the design review board or the planning commission for further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

B. Notice of the city council decision shall be provided to all parties to the hearing within five working days of the date that the final order was signed. The notice of decision shall include:

1. A brief description of the decision reached;

2. A statement that the decision may be appealed to the land use board of appeals by filing a notice of intent to appeal a land use decision within twenty-one days after the date of the decision sought to be reviewed becomes final; and

3. A statement that the complete case, including the final order is available for review at the city. (Ord. 97-31 § 3; Ord. 90-3 § 19; Ord. 90-10 § 1 (Appx. A § 68); Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.085))

17.88.200 Notification of state and federal agencies.

The city shall forward a copy of the final decision, including the findings and required conditions, within seven working days, to the appropriate state and/or federal agencies where a use or activity involves a state or federal permit which requires a determination of consistency with the local comprehensive plan. The response shall contain a statement of whether or not approval of the permit would be consistent with the comprehensive plan, the reasons the development is or is not so considered, and standards and conditions which should apply if a state or federal permit is granted. (Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (10.090))

17.88.210 Final action on applications.

The city shall take final action on an application for a permit, limited land use decision, or zone change within one hundred twenty days of the receipt of a complete application. The one hundred twenty day period does not apply to an amendment to the comprehensive plan or zoning ordinance, or the adoption of a new land use regulation. At the request of the applicant, the one hundred twenty day period may be extended for a reasonable period of time. (Ord. 96-1 § 7: Ord. 89-3 § 1 (part): Ord. 86-10 § 15: Ord. 79-4 § 1 (10.092))

Chapter 17.90

GENERAL REQUIREMENTS AND REGULATIONS

Sections:

17.90.010	Authorization of similar uses.
17.90.020	Access requirement.
17.90.030	Maintenance of access.
17.90.040	Clear-vision areas.
17.90.050	Maintenance of minimum requirements.
17.90.060	Dual use of required open space.
17.90.065	Architectural design elements.
17.90.070	Projections into required yards.
17.90.080	Exceptions to building height regulations.
17.90.090	Limited triplexes.
17.90.100	Control of lights on public beach.
17.90.120	Conversion of motels to condominiums.
17.90.130	Storage in front yards.
17.90.135	Recreational vehicle occupancy.
17.90.140	Storage of unused vehicles, junk or debris.
17.90.150	Outdoor merchandising.
17.90.160	Land surveys.
17.90.170	Duplex standards.
17.90.180	Claims for compensation under ORS 197.352.

17.90.010 Authorization of similar uses.

The planning commission may authorize that a similar use, not specifically listed in the allowed uses of a zone, shall be included among the allowed uses if deemed similar. However, this section prohibits the inclusion in a zone where it is not listed, a use specifically listed in another one, or a use of the same general type and similar to a use specifically listed in another zone. (Ord. 79-4 § 1 (4.020))

17.90.020 Access requirement.

Every lot shall abut a street, other than an alley, for at least twenty-five feet. Lots which were created prior to adoption of the zoning ordinance which do not meet this provision may be accessed via an irrevocable recorded easement of a minimum of ten feet in width. (Ord. 87-14 § 1: Ord. 79-4 § 1 (4.030))

17.90.030 Maintenance of access.

The city shall review, under ORS 271.080 through 271.230, proposals for the vacation of public easements or rights-of-way which provide access to the ocean beach or estuarine waters. Existing rights-of-way and similar public easements which provide access to coastal waters shall be retained or replaced if they are sold, exchanged or transferred. Rights-of-way may be vacated so long as equal or improved access is provided as part of a development project. (Ord. 89-28 § 3: Ord. 86-10 § 4: Ord. 79-4 § 1 (4.035))

17.90.040 Clear-vision areas.

A. Requirement. A clear-vision area shall be maintained on the corners of all property adjacent to the intersection of two streets. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three feet in height, measured from the top of the curb or, where no curb exists, from the es-

tablished street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height of eight feet above the grade.

B. Measurement. A clear-vision area is that area enclosed by the lines formed by the center lines of intersecting pavements or driving surfaces and a straight line drawn diagonally, across the corner, connecting those lines at the various distances specified by the chart below. The measured distance along the uncontrolled driving surface is "vision clearance distance -a-." The measured distance along the controlled driving surface is "vision clearance distance -b-." Measurement of the vision clearance distance -a- shall be from the point of intersection of the center lines of the two travel surfaces. Measurement of the vision clearance distance -b- shall be from the adjacent stop sign.

C. Exceptions. The requirements of subsection B do not apply to public utility poles or traffic control signs.

	Clear-Vision Area	
Street Classification	Vision Clearance Distance -a-	Vision Clearance Distance -b-
15 mph street and 15 mph street	75 ft.	10 ft.
15 mph street and 20 mph street	125 ft.	10 ft.
15 mph street and 30 mph street	200 ft.	10 ft.

(Ord. 93-21 §§ 2, 3, 4)

17.90.050 Maintenance of minimum requirements.

No lot area, yards, other open space or off street parking or loading area existing on or after the effective date of the zoning ordinance shall be reduced below the minimum required for it by the zoning ordinance. No conveyance of any portion of a lot, for other than a public use, shall leave a structure on the remainder of the lot with less than minimum ordinance requirements. (Ord. 79-4 § 1 (4.070))

17.90.060 Dual use of required open space.

No lot area, yard or other open space or off street parking or loading area which is required by the zoning ordinance for one use shall be a required lot area, yard or other open space or off-street parking or loading area for another use. (Ord. 79-4 § 1 (4.080))

17.90.065 Architectural design elements.

All single-family dwellings, modular housing and manufactured homes located in the RVL, RL, R1, R2, RAM, R3, RM, and C1 zones shall utilize at least two of the following architectural features: dormers; more than two gables; recessed entries; covered porch/entry; bay window; building off-set; deck with railing or planters and benches; or a garage, carport or other accessory structure. (Ord. 94-5 § 11)

17.90.070 Projections into required yards.

A. Cornices, eaves, window sills and similar incidental architectural features may project not more than eighteen inches into a yard required to be a minimum of five feet, or thirty-six inches into a yard required to be fifteen feet or more.

B. Bay windows, with no useable floor area and not exceeding a length of ten feet and not more than one per building elevation, may project not more than eighteen inches into a required side yard, or thirty-six inches into a required front or rear yard. Bay windows may not project into a required ocean yard.

C. Chimneys shall project not more than twenty-four inches into any required yard.

D. Building Entrances.

1. Unroofed landings may project not more than thirty-six inches into a required front yard, rear yard or street side yard where they provide access to the first story of a dwelling, as the term story is defined by the building code and where the landing is limited to no more than ten lineal feet. Such a landing may be accessed by no more than three risers. Unroofed landings and stairs may not project into a required ocean yard.

2. A covered entry to a dwelling may project not more than thirty-six inches into a required front yard, rear yard or street side yard where the entry provides access to the first story of the dwelling, as the term story is defined in the building code. The covered entry is limited to no more than ten feet in length and shall be completely open on all sides. The entry may be accessed by no more than three risers. Covered entries and stairs may not project into a required ocean yard.

E. Patios and decks, including any fixed benches, railings, or other attachments, which are no more than thirty inches in height above the existing grade may project into a required yard, but may not be closer than two feet to any property line. For lots abutting the oceanshore, a deck or patio permitted in the required yard may not be closer than two feet to the western property line or the Oregon Coordinate Line, whichever is further east. Patios and decks constructed in a required yard shall not obstruct significant views of the ocean, mountains or similar features from abutting property. (Ord. 08-1 §§ 58, 59; Ord. 92-11 § 54: Ord. 92-11 § 54: Ord. 79-4 § 1 (4.090))

17.90.080 Exceptions to building height regulations.

Projections such as chimneys, spires, domes, elevator shaft housings, towers, wind generators, aerials, flagpoles and other similar objects not used for human occupancy are not subject to the building height limitations of the zoning ordinance. (Ord. 79-4 § 1 (4.180))

17.90.090 Limited triplexes.

Triplexes permitted by Section 17.16.020(D) shall conform to the following standards:

A. The minimum lot size shall be five thousand square feet;

B. Four off-street parking spaces shall be provided;

C. The property owner shall annually submit a notarized sworn statement that a minimum of two of the dwelling units are used for nothing other than long-term rental purposes (periods of thirty calendar days or

more). (Ord. 92-11 § 65: Ord. 89-3 § 1 (part): Ord. 79-4 § 1 (4.150))

17.90.100 Control of lights on public beach.

No artificial light source shall be placed so that it directly illuminates the public beach at a distance of more than one hundred feet from the Oregon Coordinate Line or the property line, whichever is most eastward, after January 1, 1985. "Artificial light source" is defined as a lamp or other emitter of light which is directly visible from the public beach, including but not limited to flood lamps, area or barn lights, and street lights. (Ord. 79-4 § 1 (4.105))

17.90.120 Conversion of motels to condominiums.

In the event a motel is converted to a condominium, the requirements of the use to which it is converted shall apply. (Ord. 79-4 § 1 (4.125))

17.90.130 Storage in front yards.

Boats eighteen feet in length or greater, or recreation vehicles six feet six inches in height or greater shall not be stored in a required front yard. (Ord. 90-11A § 1 (Appx. A § 13): Ord. 79-4 § 1 (4.050))

17.90.135 Recreational vehicle occupancy.

Recreational vehicles may not be occupied on any lot in the city except as follows:

A. In an approved recreational vehicle park; or

B. During the construction period of a permitted use for which a building permit has been issued, but not to exceed one year and where the size of the recreational vehicle does not exceed three hundred square feet. (Ord. 90-11A § 1 (Appx. A § 14): Ord. 79-4 § 1 (4.055))

17.90.140 Storage of unused vehicles, junk or debris.

It is unlawful to keep inoperative vehicles or vehicle parts within view of persons on a public street or adjacent properties, or to keep unsightly and potentially hazardous accumulations of debris within view of persons on the public street or adjacent properties. (Ord. 79-4 § 1 (4.850))

17.90.150 Outdoor merchandising.

A. Purpose. The purpose of this section is to ensure that certain commercial activities are carried out in a manner that is aesthetically compatible with adjacent uses, minimizes congestion in commercial areas, minimizes impact on pedestrian circulation and maintains open space areas designed for pedestrian use.

B. All uses in the C1, C2 and RM zones shall be conducted entirely within a completely enclosed building except that the outdoor storage, display, sale or rental of merchandise or services may be permitted where the standards of subsection D of this section are met. The following uses and activities, subject to applicable conditions, are exempt from this prohibition:

1. The sale of living plant materials and cut flowers;

2. Outdoor seating in conjunction with a restaurant;

3. Christmas tree sales lot;

4. The dispensing of gasoline at a service station;

5. Newspaper vending machines subject to subsection (E)(1) of this section;

6. The sale of goods and services by a nonprofit organization subject to subsection (E)(2) of this section;

7. Automatic teller machines, subject to the design review requirements of Chapter 17.44;

8. Telephone booths, subject to the design review requirements of Chapter 17.44;

9. Live music and other outdoor performances, subject to subsection (E)(3) of this section; and

10. Farmers' market, subject to subsection (E)(4).

C. The prohibition on the outdoor storage or display of merchandise in conjunction with a commercial use applies to the general type of merchandise which is sold within the business premises, not just specific merchandise styles or brands.

D. The outdoor storage, display, sale or rental of merchandise or services may be permitted where:

1. The outdoor area in which the merchandise or service is stored, displayed, sold or rented is accessible only through a building entrance; or

2. The outdoor area is screened from a public street or adjacent property in a manner approved by the design review board.

E. The following additional requirements are applicable to certain types of outdoor merchandising:

1. Newspaper vending machines: newspaper vending machines, placed on a public sidewalk, shall be located so that the use of the sidewalk by handicapped persons is not impeded. This standard shall be met by maintaining a minimum, unobstructed sidewalk width of four feet.

2. Nonprofit organization sales: the sale is authorized by a site specific use permit granted by the city manager after finding that:

a. The sale has the approval of the owner or lessee of the property on which it is to take place;

b. The sale will be located in a manner that will not interfere with pedestrian or vehicular traffic;

c. The sale will not interfere with the operation of adjacent businesses;

d. The sale shall be held no more than twice a year; and

e. The sale shall be for a specified period of time. The duration of the sale shall not exceed one day.

3. Live music or outdoor performances: The music or outdoor performance complies with the following:

a. The event has the approval of the property owner or lessee of the property;

b. The location of the music will not interfere with pedestrian traffic or the operation of adjacent businesses;

c. Where the music is proposed to be amplified by electronic means, the location is appropriate;

d. The hours proposed for the live music are appropriate to the location; and

e. The live music will be for a specified period of time.

4. Farmers' market. The farmers' market is approved by a site specific authorization made by the city manager after finding that the following standards are met:

a. The location will not unduly interfere with pedestrian or vehicular traffic;

b. The location will not unduly interfere with the operation of adjacent businesses;

c. The farmers' market is conducted for a specified period of time, including hours of operation; and

d. The farmers' market is limited to food, specific food related items and cut flowers.

F. For the purposes of this section, the free distribution of merchandise is considered outdoor merchandising and is prohibited. (Ord. 10-5 §§ 1, 2; Ord. 08-1 §§ 60, 61; Ord. 97-2 § 2: Ord. 90-10 § 1 (Appx. A § 44): Ord. 79-4 § 1 (4.900))

17.90.160 Land surveys.

Before an action is taken pursuant to this title which would cause adjustments or realignment of property lines, required yard areas or setbacks, the exact lot lines shall be validated by location of official survey pins or by a recorded survey performed by a licensed surveyor. If a property boundary survey was recorded prior to January 1, 1986, a letter from the licensed surveyor responsible for the recorded survey, or another licensed surveyor, shall be submitted stating that the survey as performed and recorded is still valid and accurate and that nothing in the monumentation or methods used has changed since the survey was done which would make it inaccurate or invalid, and no known disputes of that survey exist. Failing to produce such a letter, the property owner shall be required to secure a new survey. (Ord. 96-2 § 1: Ord. 92-11 § 68: Ord. 90-10 § 1 (Appx. A § 45): Ord. 79-4a § 1 (4.955))

17.90.170 Duplex standards.

The following standards are applicable to duplexes:

The individual dwelling units of a duplex may not be sold as separate personal property. (Ord. 09-2 § 1; Ord. 06-10 § 12; Ord. 95-8 § 13)

17.90.180 Claims for compensation under ORS 197.352.

A. For purposes of this section, "final action" means an order approved by the city council modifying, removing or not applying the city's land use regulation(s) in response to a demand for compensation under ORS 197.352.

B. The following standards must be met in order for a use to be considered a use permitted outright in the zone in which it is located:

1. If the demand does not involve a land division, the use or structures described in the development agreement created as part of the city's final action have been constructed in conformance with the standards and conditions of the development agreement by the person who obtained the right(s)

to use the property under the city's final action; or

2. If the demand involves a land division, the lots are shown on a final plat recorded in conformance with the development agreement created as part of the city's final action and any state laws or city ordinances that continue to apply; or

3. If the use described in the development agreement created as part of the city's final action does not require construction and is not a land division, the property continues to be owned by the person who obtained the right(s) to use the property under the city's final action;

4. The state of Oregon has made a final determination to modify, remove or not apply the requirements of any applicable state laws or regulations that restrict the intended use of the property, thus permitting the use of the property as provided for in the city's final action. (Ord. 06-3 § 27)

Chapter 17.92

ADMINISTRATIVE PROVISIONS

Sections:

17.92.010	**Development permits.**
17.92.020	**Enforcement.**
17.92.030	**Building permits.**
17.92.040	**Application information.**
17.92.050	**Consolidated application procedure.**
17.92.060	**Filing fee.**

17.92.010 Development permits.

A. Permit Required.

1. A development permit is required for:

a. The construction, enlargement, alteration, repair, moving, improvement, removal, conversion or demolition of any structure or building which requires a building permit pursuant to either the State of Oregon, One and Two Family Dwelling Code, or the State of Oregon, Structural Specialty Code. (For the purpose of this section, these are referred to as Type 1 development permits.); or

b. An activity or structure specifically listed in this title as requiring a development permit. (For the purpose of this section, these are referred to as Type 2 or Type 3 development permits.)

2. In the case of a structure or building requiring a building permit, the development permit may be part of the building permit.

B. Application. A property owner or their designated representative may initiate a request for a development permit by filing an application with the city using forms provided by the city.

C. Administrative Review of Development Permits.

1. Administrative Review of Type 1 Development Permits. The building official shall issue a development permit to the applicant if the building official finds that the work described in an application for a development permit and the plans, specifications, and other data filed with the application conform to the requirements of this title, and any conditions imposed by a reviewing authority. A decision of the building official may be appealed to the planning commission in accordance with Section 17.88.140.

2. Administrative review of Type 2 development permits shall follow the following procedure:

a. The development permit application shall be reviewed by planning department against the applicable standards contained in this title and the application shall either be approved, approved with conditions, or denied.

b. A decision shall be made within twenty days of the receipt of a complete application.

c. The decision of the planning department shall be by signed written order. The order shall comply with Section 17.88.110(B). The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.

d. The applicant shall be notified of the decision in accordance with the provisions of Section 17.88.130. Property owners within one hundred feet of the exterior boundary of the subject property shall likewise be notified.

e. A decision on the development permit may be appealed to the planning commission in accordance with Section 17.88.140.

3. Administrative review of Type 3 development permits shall follow the following procedure:

a. A development permit application shall be submitted in accordance with Section 17.92.040.

b. A notice of the proposed development shall be mailed to property owners within one hundred feet of the exterior boundary of the subject property. The notice shall include the information specified in Section 17.88.030(A), (C), (D), (E), (G) and (I). The notice shall also include a statement that persons are invited to submit information within twenty days relevant to the standards pertinent to the proposal giving reasons why the application should or should not be approved or proposing modifications the person believes are necessary for approval according to the applicable standards.

c. Following the end of the notice period described in Section 17.92.010(C)(3)(b), the planning director shall approve, approve with conditions or deny the application. The decision shall be by a signed written order. The order shall comply with Section 17.88.110 (B). The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes effective on the expiration of the appeal period, unless an appeal has been filed.

d. The applicant and other persons who commented on the proposed development permit shall be notified of the decision in accordance with the provisions of Section 17.88.130.

e. A decision on the development permit may be appealed to the planning commission by a party who commented on the proposed development permit in accordance with Section 17.88.140.

D. Emergency Issuance. A Type 2 development permit may be issued without meeting the requirements of subsection (C)(2) of this section when necessary to alleviate an immediate threat to property. At the conclusion of the emergency, measures taken as a result of the emergency will be reviewed and appropriate modifications, to conform to city standards, shall be made.

E. Expiration. A development permit shall become null and void if work has not commenced within one hundred eighty days of its issuance or if the work is abandoned for more than one hundred eighty days after work has started.

F. Revocation. For Type 1 development permits, the portion of the development permit which pertains to building code requirements may be revoked by the building official upon a finding of noncompliance with the standards set forth in the State of Oregon, One and Two Family Dwelling Code, or the State of Oregon, Structural Specialty Code, or with conditions applied to the permit. That decision may be appealed to the Building Board of Appeals. The portion of the development permit which pertains to land use standards contained in this title may be revoked by the building official upon a finding of noncompliance with provisions of this title. That decision may be appealed to the planning commission. A Type 2 development permit may be revoked by the city manager upon a finding of noncompliance with the provisions of this title, or conditions attached to the development permit. That decision may be appealed to the planning commission.

Revocation of a development permit is a remedy available in addition to and in lieu of other remedies provided by this code. (Ord. 08-1 § 62; Ord. 02-17 §§ 2, 3; Ord. 94-8 § 22 (part))

17.92.020 Enforcement.

The building official or code enforcement officer shall have the power and principal responsibility for enforcing provisions of this title. Neither the building official nor any other public employee or official of the city shall issue any permit or license for any use, activity or structure which violates provisions of this title. Any permit or license issued in conflict with the provisions of this title, intentionally or otherwise, shall be void. (Ord. 94-8 § 22 (part); Ord. 90-10 § 1 (Appx. A § 69): Ord. 79-4 § 1 (11.010))

17.92.030 Building permits.

Before issuing a permit for the construction, reconstruction or alteration of a structure, it will be the responsibility of the building official to make sure that provisions of this title will not be violated. (Ord. 94-8 § 22 (part); Ord. 79-4 § 1 (11.020))

17.92.040 Application information.

A. An application for an action or permit provided for by this title shall consist of:

1. A complete application form and the appropriate application fee;

2. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the

consent of all partners in ownership of the affected property;

3. Legal description of the property affected by the application.

B. If the application is complete when first submitted, or the applicant submits the requested additional information within one hundred eighty days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

C. If an application for a permit or zone change is incomplete, the city shall notify the applicant of the additional information required within thirty days of the receipt of the application. The applicant shall be given the opportunity to submit the additional information required. The application shall be deemed complete upon receipt of additional information required. If the applicant refuses to submit the required additional information, the application shall be deemed complete on the thirty-first day after the governing body first received the application. (Ord. 94-8 § 22 (part); Ord. 79-4 § 1 (11.030))

17.92.050 Consolidated application procedure.

Where a proposed development requires more than one development permit, or a change in zone designation from the city, the applicant may request that the city consider all necessary permit requests in a consolidated manner. If the applicant requests that the city consolidate his or her permit review, all necessary public hearings before the planning commission shall be held on the same date. (Ord. 94-8 § 22 (part); Ord. 86-10 § 16: Ord. 79-4 § 1 (11.035))

17.92.060 Filing fee.

It shall be the responsibility of the applicant to pay for the full cost of processing permit applications. Minimum fees shall be set by resolution by the city council, and the applicant shall pay the minimum fee to the city upon the filing of an application. Such fees shall not be refundable. The applicant shall be billed for costs incurred over and above the minimum permit fee at the conclusion of city action of the permit request. (Ord. 94-8 § 22 (part); Ord. 90-3 § 20: Ord. 90-10 § 1 (Appx. A § 70): Ord. 79-4 § 1 (11.040))

Chapter 17.94

ENFORCEMENT

Sections:

17.94.010 Violation—Penalty.
17.94.020 Alternative remedy.

17.94.010 Violation—Penalty.

A person convicted of violating a provision of this title is punishable by a fine of not less than one hundred dollars nor more than five hundred dollars. Each day in which a violation of this title occurs shall be considered a separate violation. (Ord. 92-1 § 7: Ord. 85-1 § 3: Ord. 79-4 § 1 (13.010))

17.94.020 Alternative remedy.

In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used in violation of this title, the building or land in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin temporarily or permanently abate, or remove the unlawful location, construction, maintenance, repair, alteration or use. (Ord. 79-4 § 1 (13.020))